1960

THE Vniversity of OXFORDS Plea refuted.

OR,

A full ANSWER to a late printed Paper, Intituled,

The *Priviledges of the Universsity of Oxford in point of Visitation:* Together *with, the Universities Answer to the Summons of the Visitors.*

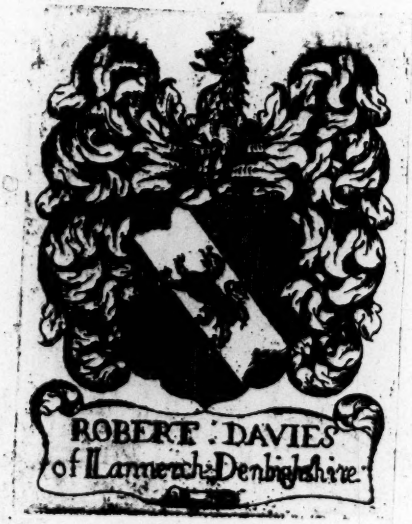
Manifesting the *Vanity* and *Falsity* of this pretended *Universsity Priviledge* and *Plea* to the *Visitors* Jurisdiction; *That the right of Visiting the Universsity of Oxford is onely in the Kings Majestie, and that it is exempt from all other Jurisdiction by its Foundation, Prescription, and severall Grants of Exemption.* And insufficiency of all the Allegations and Authorities produced to support it.

Published for the *information* of the *Judgements*, and *satisfaction* of the *consciences* of all *ingenuous Members* of that *Universitie*, who onely out of *Ignorance* or Error, not *Obstinacy* or *Malignity*, have demurred to the *Jurisdiction* of the *Visitors* thereof, though appointed, authorized by *Ordinance of Parliament, and Commission under the Great Seal of England.*

By *William Prynne*, Esq; one *of the said Visitors*

Prov. 19.20. *Heare Counsell, and receive Instruction, that thou maist be wise in thy latter end.*

London, *Printed by* T. B. *for* Michael Spark, 1647.



N.C.
MADAN

The *University* of OXFORDS Plea refuted.

THE ingenuous Answer of some of the Doctors, and both the Proctors of my Mother-University of *Oxford*, to the honourable standing Committee of Lords and Commons for its regulation, on the 16. of this instant *November*, (before whom they were then personally convented, for demurring to the jurisdiction of the Visitors appointed them by both houses of Parliament) to this effect: *That they did in their former papers presented by the Proctors, October 8. by way of petition, onely represent their sense of their own priviledges, and their Obligations (as they conceived) by divers oaths for the maintaining of them, without circumscribing or limiting, much lesse denying or contemning the authority of the Lords and Commons, but purposely avoyding (as still they did desire to avoyd) all questions of so high and transcendent a nature; it being possible that they might be in an errour, and yet to be obliged in conscience, not to do otherwise then they have done, till they are convinced of that errour. And therefore humbly desired convenient time to advise with councell, more fully to inform themselves, in a case so extraordinary, and of so great concernment, not onely to themselves, but to the whole University in present, and in future, &c.* enduced me, not onely then to move this honourable Committee, that the University

and they might be fully heard by their Counſel on a convenient day, to alledge whatever they could, both in maintainance of their reſpective Anſwers delivered in under their hands to ſome of the Viſitors, and then by them there acknowledged, which was accordingly ordered in their favour; But likewiſe to borrow ſome time from my other employments, to examine and refute all thoſe pretended Univerſity priviledges, and falſe allegations to ſupport them, in a Letter lately printed at *Oxford* (by the Univerſities approbation, if I am not miſinformed) entituled, *The Priviledges of the Univerſity of* OXFORD *in point of Viſitation, &c.* (which hath ſeduced many to diſpute and diſobey the Viſitors power;) wherein the ſubſtance of all their Objections againſt the Viſitors juriſdiction in point of law or conſcience, are compriſed; that ſo I might in a Univerſity way, by ſtrength of argument and evidence, not by power and force, inform the miſguided judgments, and ſatisfie the erronious conſciences of all ſuch members of this Univerſity, liable to our viſitation, whoſe obſtinacy or malignity ſhall not render them altogether incapable of better inſtruction, and conſequently of any hopes of commiſeration or pardon for their contumacy.

Ic is not my deſign in this ſummary Diſcourſe, to enter into any large debate of the Sovereign power of both houſes of Parliament, whoſe ſupream juriſdiction to viſit, puniſh, reform all abuſes and corruptions in the Kings own Court, in the higheſt Courts of Juſtice, the greateſt Officers of State, and in all Corporatious and Societies of men whatſoever, within this Realm, I have largely vindicated in [a] *other Treatiſes*, ſeeing the Univerſity it ſelf, and the parties convented, do willingly wave this dangerous Diſpute, as fatall and deſtructive to them, if poſitively inſiſted on; but onely to demonſtrate to them the vanity and falſity of this their pretended Priviledge they peremptorily aſſert, and principally rely on, as their lawfull Inheritance and Birth-right, which they are obliged by oath and duty to maintain.

[a] The Sovereign Power of Parliaments and Kingdomes, part 1, 2. and the Appendix at the end of the fourth part.

That the right of viſiting the Univerſity of Oxford *is onely in the Kings Majeſty, and that it is exempt from all other juriſdiction, both by foundation, preſcription, and ſeverall grants of exemption.*

This

This their claim and assertion, I shall irrefragably falsifie and refute by Histories and Records, which cleerly evidence;

First, That the University of *Oxford* was anciently of right for many ages, under the jurisdiction, if not visitation of the Bishop of *Lincoln*, as he was their Diocesan.

Secondly, that it was anciently of right, and so continued till this Parliament, under the visitation & jurisdiction of the Archbishops of *Canterbury* as Metropolitanes (who have frequently visited this University and *Cambridge* too) as being within their Province, and have been acknowledged and adjudged by King *Richard* the second, King *Henry* the fourth, and an whole Parliament in his reign, and by King *Charles* himself, upon solema debate, to be lawfull Visitors of it, *de jure*. And that these three Kings, and the Parliament of 13. *H.* 4. have by their Charters and Votes absolutely disclaimed the King's sole right of visiting the Universities, and alwayes resolved the contrary, when the Universities for their own ends have set it on foot, and laid claim unto it: no King of *England* before *Henry* the eight, ever visiting either of the Universities, for ought appears by any authentick Records.

Thirdly, That the Pope by his Legat hath visited both Universities, without resistance, or any Plea put in to his jurisdiction, no longer since then Q. *Maries* reign; and that the Universities are subject to their Chancellours jurisdiction and visitation too, by thier own confessions.

Fourthly, That most particular Colledges and Hals in both Universities, as Colledges, Hals and Members of the University, have their particular Visitors appointed by the founders, to whose visitation and jurisdiction they are subject, and not to the King's alone.

Fiftly, That their pretended grants of exemption were procured onely from Popes, not from the Kings of *England*; that our Kings themselves & one Parliament, have damned them, as derogatory to the King's Prerogative, even in times of Popery, and the Vniversity it self disclaimed and renounced, them both before the King, and in full Convocation, as a grievance, not a priviledge, obtained against their wils, and without their privity, to their prejudice.

When I have made good theſe poſitions, the whole Univerſity and their Delegates (if not ſtupendiouſly obſtinate) muſt neceſſarily retract this their Plea as falſe and nugatory, and diſclaim their imaginary Priviledge.

For the firſt of theſe, it is as cleer as the noon-day Sun, that the Univerſity of *Oxford* was under the juriſdiction, if not viſitation of the Biſhops of *Lincoln*, as being their Dioceſans: First, by the very Buls of Pope [a] *Boniface* the eight, and [b] *Sixtus* the fourth, cited in the third page of *the Priviledges of the Univerſity of* Oxford *in poynt of Viſitation*; in expreſſe termes exempting the Univerſity, *ab omni juriſdictione Epiſcopali & a Viſitatione:* which needed no ſuch exemption by two ſucceſſive Popes, from the Biſhops juriſdiction and viſitation, if the Univerſity (founded many hundred yeers before theſe Buls were granted) had never been ſubject to, but exempted from it by foundation and preſcription too, as is pretended; it being then a meer ſuperfluity for theſe Popes to grant, or the Univerſity to embrace, as a ſpecial priviledge and indulged favor.

a About *Anno* 1300.

b *Anno* 1475.

Next, by theſe enſuing cleer Hiſtorical paſſages: [c] *Matthew Paris* in *anno dom.* 1257. pag. 915, 916. writes thus concerning the Biſhop of *Lincolns* and Univerſity of *Oxford's* conteſt then happening between them about his juriſdiction and the Univerſities priviledges, which he endeavoured to infringe in the generall, without ſpecifying the particulars, which difference was referred to the Parliament then at hand to determine.

c *Tiguri* 1589.

Eodem tempore, videlicet ſeptimo idus Martii, venerunt ad ſanctum Albanum *quidam Magiſtri* Oxoniæ, *circiter novem Artiſtæ, qui querula voce coram Rege, in Capella* Sancti Oſwini *repoſuerunt querimoniam de* Epiſcopo Lincolnienſi, *qui* contra Statuta Univerſitatis antiqua & approbata, nitebatur libertates Scholarium enervare: *& ſtatutus eſt dies reſponſionis ad inſtans* magnum Parliamentum, *ut auditis partium rationibus, pacificarentur*, &c. [a] *Henry Lexinton* was then Biſhop of *Lincoln*.

a *Godwin's* Catalogne of Biſhops, p. 241 242. who likewiſe recites this controverſie.

What the Parliament (here made the proper Judge of the Univerſities priviledges by the Kings own reference) determined in this controverſie, or what the priviledges controverted were, I find not in any Hiſtorian or Record: but certain it is, they

determined

determined nought against the Bishops jurisdiction over the Universitty of *Oxford*, who had the better cause and right; as appears by this passage of *Matthew Parker*, in his [b] *Antiqu. Ecclesiæ Brit.* p. 204. in the life of *John Peckam*, anno 1287.

[b] *Londini* 1572.

Hoc etiam tempore lis quædam inter Lincolniensem Episcopum & Universitatem *Oxon*, *aliquot annis de* jurisdictione Episcopi in Scholares Universitatis agitata est. *In qua* Joannis Cantuariensis, *cum* SCHOLARIUM CAUSAM VACILLARE, NEC JURA STARE POSSE *intellexerat*, *Scholaribus rescripsit*; si in Jure contenderent, VINCI EOS ET SUPERARI NECESSE ESSE; *præsertim cùm his* quibus uterentur Privilegiis A JURISDICTIONE EPISCOPALI JURE COMMUNI STABILITA, EXIMI NEQUAQUAM POTUISSENT: [c] *Oliver Sutton* was then Bishop of *Lincoln*.

[c] *Godwins* Caralogue of Bishops, p. 242.

Upon this advice, it seems the Universitty submitted to the Bishop of *Lincoln's* jurisdiction, as their Diocesan, so far as to present their Chancellour to him for his approbation and confirmation; as is evident by this History, recorded in *Antiq. Eccles. Brit.* p. 268.

Anno 1350. Oxoniensis Universitatis *Scholares Cancellarium suum*, *quendam* Willihelmum de Palmorna *elegerunt*: *Qui cùm ad* Lincolniensem Episcopum, *in cujus Diœcesi tunc sitetit* Oxonium *confirmandus venisset*, *crebris procrastinationibus in aliud temporis ab Episcopo rejectus est*: *Id tàm* Universitas Oxoniensis *quàm ipse Cancellarius electus indignè tulit*. *Qui facti querela coram Archiepiscopo* (Simone Islippe) *declarata*, *ab eo opem & remedium ad tam diutinam & voluntariam sine causa tollendam moram*, *petierunt*. *Archiepiscopus edicto* Lincolniensi *præcepit*, Ut Cancellarium electum die quodam statuto confirmaret, aut coràm se compareret, dicturus causam, cur admitti & confirmari non debeat. *Interea Archiepiscopus causam* Johanni Coulton *Cancellario suo*, *& Ecclesiæ* Cathedralis Wellensis *Decano commisit*. *Die statuto aderant* Cancellarius *electus*, & *Oxoniensis* Universitatis procuratores, *qui confirmationem & consecrationem instanter petierunt*; Lincolniensis *autem Episcopus non comparuit*: *in cujus absentia contumaciam* Cantuariensis Cancellarius in negotio electionis legitimè procedens, eam legitimè ritèque celebratam, ac canonicam

nicam eſſe pronunciavit. *Quo facto* Archiepiſcopus Cancellarium confirmavit, & eundem ad Univerſitatem Oxonienſem regendam admiſit; *gregique Scholarium ſcripſit*, ut ei jam admiſſo juxta Univerſitatis jura ac ſtatuta obtemperent atque pareant. *Ab hac admiſſione* Lincolnienſis *Epiſcopus privilegio ſuo antedicto (ut ſe ſuoſque papali privilegio, quod Avinione à Papa* Clemente *magnis muneribus impetravit, ab hujus Archiepiſcopi juriſdictione defenderet) fretus, ad Papam appellavit. Archiepiſcopus autem rejecta appellatione, eum ut ſuæ juriſdictionis &* Archiepiſcopalis authoritatis *contemptorem, ad ſui tribunal vocavit, & non accedentis proterviam interdictis Eccleſiaſticis in ejus terras prædiaque latis mulctavit: multa deinceps in hac lite coram Papa agitanda controverſa ſunt, in quibus* Lincolnienſis *revocato ſuo privilegio a* Cantuarienſi *victus ſuccubuit.*

This great Conteſt happened in the time of *John Synwell* Biſhop of *Lincoln*, as [d] *Godwin* (who relates it too) informs us; adding, *That the Pope alſo granted at the ſame time unto the Univerſity, that the Chancellour ſhould be onely elected by the Schollers themſelves, and ſo preſently authorized to govern them, without the admiſſion of any other.*

[d] Catalogue of Biſhops, p 95, 245.

But this I conceive is a cloer miſtake; for *Matthew Parker* (out of whom he relates it) records, That this exemption of the Univerſity of *Oxford* from the Biſhop of *Lincoln's* juriſdiction, was procured by the interceſſion of *William Wittleſey* Archbiſhop of *Canterbury*, about the yeer 1375. (and that from another Pope, not *Clement* but *Urban*, ſome 25. yeers after this conteſtation) which he thus expreſſeth, *Antiqu. Eccleſ. Brit.* p. 283.

Hujus Archiepiſcopi interceſſione atque gratia Oxonienſis *Academia à juriſdictione* Lincolnienſis *Epiſcopi, per* Urbanum *Papam quintum EXEMPTA EST: & iàm libera poteſtas* Cancellarium *ſuum eligendi facta Scholaribus ut Cancellarius ſine admiſſione quacunque ſimulatque electus ſit magiſtratum inire atque gerere poſſit.* An undeniable evidence, that till this Papall exemption procured, the Univerſity and Chancellour of *Oxford* were under the Biſhops of *Lincoln's* juriſdiction, as their Dioceſans.

After this, *Thomas Hyndeman* Chancellour of the Univerſity of *Oxford*, and *Nicholas Faux* his Commiſſary, procuring another

another exemption from the Pope [BONIFACE *the eighth, as ſome affirm*] of this Univerſity and the Schollers in it, both from Archiepiſcopal and EPISCOPAL JURISDICTION; the Schollers, and Doctors of *Oxford* complained of it to Archbiſhop *Arundel*, and the whole Convocation at *London* in the yeer 1396. and there openly renounced it, as *non modo in Metropolitani & ORDINARII, ſed & ipſius Univerſitatis præjudicium atque gravamen*: Whereupon it was damned by the whole Convocation (as you may read at large in *Antiqu. Eccleſ. Brit.* p. 304.) and likewiſe by King *Richard* the ſecond, in the twentieth, and by *Henry* the fourth, and the Lords and Commons in Parliament in the 13th yeer of his reign: (of which more anon:) whereby the Biſhop of *Lincoln's* juriſdiction over the Univerſity of *Oxford* was not onely acknowledged and revived, but likewiſe ſubmitted to by the whole Univerſity of *Oxford*; and this exemption from it by Popes Buls onely, declared to be a prejudice and grievance to the Univerſity it ſelf, and the Biſhop too: whoſe juriſdiction thus revived, was never afterwards impeached or abrogated by any ſubſequent Buls or Patents I can meet with, but continued its vigor till the erection of the Biſhoprick of *Oxford* out of *Lincoln* by Act of Parliament, and Letters Patents of King *Henry* the eighth, in the yeer 1541. which aboliſhed the Biſhop of *Lincoln's* power, and tranſlated this part of his Dioceſſe to the Biſhop of *Oxford*, as the Patents of 33. & 37. *H.* 8 to the Biſhop of *Oxford* demonſtrate.

In fine, *Richard Flemming* Biſhop of *Lincoln*, in the yeer 1430 founded *Lincoln Colledge* in *Oxford*, and *William Smith* Biſhop of *Lincoln*, anno 1513. founded *Braſenoſe Colledge* in *Oxford*; both which Colledges (though members of the Univerſity) and of ſome others, he and his Succeſſors continued Viſitors till this preſent Parliament. *Godwin's* Catalogue of Biſhops, p. 246.

By all theſe evidences, I humbly conceive I have ſufficiently fortified my firſt poſition, That the Univerſity of *Oxford* was ſubject to the juriſdiction, if not viſitation of the Biſhops of *Lincoln* (as the Univerſity of *Cambridge* was to the Biſhops of *Ely*, which I can fully evidence, were it pertinent) and refuted the Univerſities and their Delegates falſe plea, *That*

the right of viſiting the Univerſity of Oxford *is onely in the King's Majeſty, and that it is exempt from all other juriſdiction, by its foundation, preſcription, and ſeverall grants of exemption.*

I ſhall now proceed to the proof of my ſecond poſition, touching the Archbiſhops of *Canterburies* right & juriſdiction to viſit the Univerſity of *Oxford* (and *Cambridge* too) as Metropolitans, being ſcituated within their province, by Hiſtory, Records, and our Kings avowing of this their right, and diſclaiming their own ONELY OR SOLE RIGHT TO VISIT THE UNIVERSITIES; wherein I ſhall make uſe of none but punctuall authorities.

Godwin in his Catalogue of Engliſh Biſhops p. 74. writes thus of *Robert Kilwardly* Archbiſhop of *Canterbury*; *That* (in the yeer 1278.) *he viſited all his Province, and* BOTH THE UNIVERSITIES; *in which he diſputed excellently, and ſhewed himſelf in divers kinds of exerciſe.* And *Matthew Parker* in his *Ant. Eccleſ. Brit.* p. 198. records of him, *Totam* Cantuar. *Provinciam viſitationis jure peragravit; In hac* VISITATIONE ACADEMIAS IPSAS METROPOLITICA AUTHORITATE INGRESSUS EST; (and that without any oppoſition or demurrer to his juriſdiction, for ought appeareth:) & Oxonii *in Scholis, non modò de Theologia, ſed de Philoſophia atque Logica argutè diſputavit. In quibus artibus multas* Oxonienſium *opiniones & ſententias tanquam minus probabiles reprehendit atque refellit.*

His next Succeſſor *John Peckam*, anno 1288. viſited the Univerſity of *Oxford* by his Metropolitical right, without any reſiſtance or diſpute, *Antiqu. Eccleſ. Brit.* p. 204. *Ipſeque perluſtrata reliqua Provincia* OXONIENSEM ACADEMIAM JURE METROPOLITICO VISITATURUS ADIIT: *In qua viſitatione, quaſdam philoſophicas opiniones, quos errores, & a* Roberto Kylwarby *ante reprehenſos docuit, tanquam Hæreſes & à fide Chriſtianâ abhorrentes è ſuggeſtu Latinè refellit.*

Simon Iſlippe Archbiſhop of *Canterbury* anno 1350. received an Appeal from the Chancellour-elect and Proctors of *Oxford* againſt the Biſhop of *Lincoln*, who refuſed to admit and confirm *William Palmerin*, whom they had elected and preſented

to

to him for their Chancellour; upon *whose default, he admitted and approved of his election, confirmed him in his Office, and wrote to the Schollers of the University to submit unto and obey him, according to the lawes and statutes of the University*, as *Antiq. Eccles. Brit.* p. 258. and *Godwin* in his Catalogue of Bishops, p. 95. affirm, and * I have formerly manifested more at large: A pregnant evidence of his Metropolitical jurisdiction both over the Chancellour and University. * Pag. 5, 6.

Anno 1390. *William Courtney* Archbishop of *Canterbury* (as *Antiqu. Eccles. Brit.* p. 302. informe us) *Visitationem totius Provinciæ suscepit*: and being strongly opposed by the Bishops of *Exeter* and *Sarisbury*, whom he enforced to cry *peccavi*, and to submit to his visitation at last; *reliquas tunc Diœceses sine molestia visitavit: In* Lincolnienſi *solummodo a visitatione quorundam Monachorum, gratia & intercessione* Abbatis Albanensis, OXONII *cessavit*: (visiting all the rest of the University.) *Ita visitatione peracta aliquantulum cessavit.* And in the Register of Archbishop *Arundel*, fol. 46. the Doctors, Batchelours and Schollers of the University of *Oxford*, in their Articles exhibited against their Chancellour and Vice-chancellour, to Archbishop *Arundel* and the Convocation of the Clergy, recite and make this honourable mention of this Archbishop *Courtney's* visitation of the University (where he was joyfully received without the least oppositiõ, though forcibly resisted in other places) *Quod dictus Archiepiscopus IPSAM UNIVERSITATEM TAM IN CAPITE QUAM IN MEMBRIS, plura gravamina revocando, crimina corrigendo, excessus reformando, diversas personas ab uct: scholasticis suspendendo, AUTHORITATE SUA METROPOLITICA VISITAVIT.*

These three Archbishops having visited the Universities of *Oxford* (and *Cambridge* too) in their Metropolitical visitations without the least contest or opposition; *Thomas Hyndeman* their Chancellour, and *Nicholas Faux* his Commissary, without the Universities and Schollers consents, procured a Bull from the Pope, to exempt themselves, together with the University, Colledges and Schollers in it, from all *Archiepiscopal and Episcopal jurisdiction and visitation*: Whereupon *Thomas Arundel*

Archbiſhop of *Canterbury*, intending to viſit the Univerſity (as his Predeceſſors had done) in the yeer of our Lord 1396. was oppoſed by the Chancellour and Vice-Chancellour, who pleaded the ſelf ſame plea againſt this Archbiſhops viſitation, as the Univerſities Delegates and Doctors do now againſt the Viſitors appointed by *Ordinance of Parliament, and Commiſſion under the great Seal*; namely, *That the viſitation of the Univerſity of* Oxford, *as a Univerſity, belonged onely and ſolely to the King, and not to the Archbiſhop, or any other: and that the Univerſity and Schollers in it, were by the Popes own Bull exempted from the Archbiſhops and Biſhops juriſdiction and viſitation.* Whereupon the Doctors, Proctors and Schollers of the Univerſity complained to Archbiſhop *Arundel* and the Convocation againſt the Chancellour and Vice-Chancellour for procuring this Bull, which they renounced, and the Convocation then damned; and the whole matter comming afterwards before King *Richard* the ſecond, he diſclaimed any ſuch Priviledge and Prerogative of ſole viſiting the Univerſity, as they would faſten on him, acknowledged and ratified the Archbiſhops and Ordinaries juriſdiction over them, and nulled the Popes Bull of exemption. This is apparent by Archbiſhop *Arundels* Regiſter, fol. 46, 91, 92. by Archbiſhop *Parkers* Regiſter fol. 269. and theſe enſuing paſſages in *Antiq. Eccleſ. Brit.* tranſcribed out of it, pag. 304. Anno 1397. Januarii 19. Cleri Synodus *Londini* convenit. *In hac Synodo Scholares* Oxonienſes *quærelam contra* Thomam Hyndeman *Univerſitatis Cancellarium, &* Nicholaum Faux *ejus Commiſſarium propoſuerunt*; Quod exemptionis jura, quibus ab Archiepiſcopali & Epiſcopali juriſdictione Univerſitas fiat immunis a Papa impetraſſent, non modo in *METROPOLITANI & Ordinarii, SED IN IPSIUS UNIVERSITATIS PRÆJUDICIUM ATQUE GRAVAMEN: Quod privilegium SERVITUTIS POTIUS QUAM LIBERTATIS INSTAR ESSE DOCEBANT.* Cùm enim anteà ſi iniquis Cancellarii aut Procancellarii imperiis opprimerentur, aut injuriis afficerentur, appellationibus & Archiepiſcopali æquitate ſubventum eis fuit, nunc in unius poteſtatem redacti, a quo nec permiſſa eſſet provocatio, nec ſuperioris juriſdi-

ctione

ctione poſſit coerceri, quaſi perpetuæ ſervituti ſubjacerent. *Itaque ab Archiepiſcopo petierunt, ut QUONIAM SUAM IN EOS JURISDICTIONEM AGNOSCERENT, & anteceſſoris ſui* Willielmi Courtney *moderationem atque prudentiam CUM ACADEMIAM* OXONIENSEM *TAM IN CAPITE QUAM IN MEMBRIS VISITARET, experti eſſent, UT EA a Cancellario ejuſque Commiſſario procurata PRIVILEGIA RESCINDRET; QUIBUS IPSI, interpoſito ad id* Michaele Sergeaux *juris utriuſq; Doctore legitimo procuratore, EXPRESSE ATQUE PUBLICE IN SYNODO RENUNCIARUNT. Eam RENUNCIATIONEM Archiepiſcopus RATAM HABUIT, ET EXEMPTIONIS* OXONIENSIS *PRIVILEGIA IRRITA ET INANIA JUDICAVIT. Tum Cancellarius quaſi furore actus petulanter ac immodeſtè ſe abdicavit Magiſtratu, Synodoque ſine venia diſceſſit; ſed Archiepiſcopus eum edicto revocavit, ejuſque proterviam atque audaciam repreſſit. In eadem Synodo* DOCTORES OXONIENSES *quoſdam* Joannis Wiclyffi *opiniones expoſuerunt, quas Synodus condemnavit.* And pag. 309. anno 1413. *Legatis autem ad concilium generale* Piſis *emiſſis, ARCHEPISCOPUS in ea Synodo* Jura quædam *QUIBUS TAM* CANTABRIGIENSIS *QUAM* OXONIENSIS *ACADEMIÆ TENERENTUR, condidit; quæ in publicis conſtitutionibus continentur; Nam &* RICHARDUS REX, Thomæ Arundel Cantuarienſi Archiepiſcopo, *antequàm in exilium iret UTRASQUE ACADEMIAS, ETSI EXEMPTIONEM CLAM A PAPA OBTINUISSENT, SUBJECIT, ET OBTENTA PRIVILEGIA non minus ARCHIEPISCOPALI QUAM REGIÆ AUTHORITATI PRÆJUDICIALIA, IDEOQUE RESCINDENDA, DECREVIT.*

This will yet more evidently and undeniably appear by the Patent of King *Richard* the ſecond himſelf, recorded in the Patent-Rols, *De anno Viceſſimo* Richardi *ſecundi*, parte 3. Memb. 9. and entred in the Regiſters of Archbiſhop *Warham*, fol. 111. and Archbiſhop *Parker*, fol. 269. which for fuller ſatisfaction, I ſhall at large tranſcribe.

Rex omnibus ad quos, &c. ſalutem. Sciatis quod cum quædam diſſentiones, lites & debatæ nuper motæ fuerunt & ſubortæ inter Venerabilem Patrem *Thomam* Archiepiſcopum *Cantuarienſem* ex parte una, & Cancellarium Univerſitatis *Oxonienſis*, & QUOSDAM ALIOS (not the whole body or major part) ejuſdem Univerſitatis ex altera, ſuper uſu & exercitio juriſdictionis & VISITATIONIS dictæ UNIVERSITATIS, clamante videlicet præfato Archiepiſcopo & VENDICANTE JURISDICTIONEM ET VISITATIONEM HUJUSMODI AD IPSUM ET SUCCESSORES SUOS, AC ECCLESIAM SUAM PERTINERE, AC PERTINERE DEBERE, Prædeceſſoreſque ſuos hujuſmodi juriſdictionem ET VISITATIONEM IN UNIVERSITATE PRÆDICTA HABUISSE ET EXERCUISSE. Allegantibuſque præfato Cancellario & aliis prædictis (*the very plea in terminis alledged by the Univerſity and their Delegates now*) Viſitationem dictæ Univerſitatis ut Univerſitatis, AD NOS SOLUM ET IN SOLIDUM PERTINERE, ET PERTINERE DEBERE (*the very firſt time that any ſuch pretence or priviledge was inſiſted on without any authority or preſidēt to back it;*) Nos volentes hujuſmodi diſſentiones, lites & debatas, prout Regiæ convenit Majeſtati (attentis damnis & periculis quæ inde veroſimiliter evenire poſſint) ſedare & pacificare, ac pacem, quietem & tranquillitatem inter partes prædictas pro viribus confovere; ac conſiderantes, QUOD VISITATIO HUJUSMODI AD PRÆFATUM ARCHIEPISCOPUM ET SUCCESSORES SUOS, AC ECCLESIAM SUAM PRÆDICTAM DE JURE COMMUNI PERTINET, AC PERTINERE DEBET; QUODQUE NOS AUT PROGENITORES NOSTRI CANCELLARIUM AC UNIVERSITATEM PRÆDICTAM RETROACTIS TEMPORIBUS MINIME VISITARE CONSUEVIMUS, (*a cleer evidence and fatall judgment againſt this pretended priviledge and feigned plea, which this King himſelf in terminis diſclaimed, when firſt invented and alledged:*)

alledged:) Volumus & EX CERTA SCIENTIA DECLARAMUS, Quod VISITATIO Cancellarii & Procuratorum dictæ UNIVERSITATIS qui pro tempore fuerint, necnon OMNIUM DOCTORUM, MAGISTRORUM REGENTIUM ET NON REGENTIUM, AC SCOLARIUM EJUSDEM VNIVERSITATIS, QVORVMCVNQVE eorum servientium, aliarum personarum QVARVMCVNQVE cujuscunque status vel conditionis exiterint, libertatibus aut privilegiis dictæ Universitatis utentium, seu illis gaudere volentium; NECNON VNIVERSITATIS PRÆDICTÆ ETIAM UT VNIVERSITATIS, AD PRÆFATVM ARCHIEPISCOPVM, SVCCESSORES SVOS, AC ECCLESIAM SVAM PERTINET, ET PERTINERE DEBET, AC PERPETVIS FVTVRIS TEMPORIBVS PERTINEBIT. Salvis Nobis & Hæredibus Nostris omnibus aliis quibus in Vniversitate prædicta Nos & Progenitores Nostri uti consuevimus temporibus retroactis. In cujus, &c. *Teste Rege apud Westm. primo die Junii: Per ipsum Regem.*

An ancient royal Declaration and judgment in the present Controversie, so full and diametrally opposite against the Vniversities and Delegates present Plea and pretences, that nothing can be replyed thereunto.

This Declaration and Resolution of King *Richard* the 2d, was afterward more fully recited, approved and ratified by King *Henry* the fourth, and the Lords and Commons in Parliament, as I shall presently manifest in its proper place.

Not long after this Declaration and Patent, this Archbishop *Thomas Arundel*, in the year of our Lord 1407. visited the Vniversity of *Cambridge*, and the Colledges therein, thus summarily expressed by *Matthew Parker* in his *Antiq. Eccles. Brit.* p. 308, 309. Post hæc *Archiepiscopus Cantabrigiensem Academiam* JVRE METROPOLITICO VISITAVIT, multaque Collegiorum statuta ordinavit, pravas consuetudines delevit, facinora Scholarium castigavit, & cum visitationem remisit, omnia quæ sibi in visitatione detecta fuerunt, causasque de quibus cognoscere ac inquirere cœpit, suæ jurisdictioni reservavit.

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The relaxation of this Metropolitical Viſitation was not till *Octob.* 15. 1404. ſo as it depended three whole yeers or more, as is apparent by the Regiſter of *Arundel*, 1. pars, f. 388 wherein the whole forme of his viſitation of *Cambridge* Vniverſity and Colledges, being at large recorded, fol. 491, 492, 493. it will neither be impertinent nor unprofitable to give you this account thereof, in the words of the Regiſter, fol. 492, &c. which may ſerve for a pattern of direction now.

Item decimo ſeptimo die menſis Septembris anno domini 1401. idem reverendiſſimus Pater Archiepiſcopus ſupradictus, viſitavit Cancellarium & Vniverſitatem *Cantabrigiæ* in domo Congregationis ejuſdem Vniverſitatis, comparentibus tunc ibidem coram eo Cancellario, ac omnibus & ſingulis Doctoribus & Magiſtris regentibus & aliis perſonis quibuscunque dictæ Vniverſitatis qui hujuſmodi viſitationi intereſſe tenebantur, & deberent de conſuetudine vel de jure; & facta deinde collatione, ac propoſito verbo Dei, & cauſis ſuæ viſitationis hujuſmodi ſeriosè expoſitis; Cancellarius Vniverſitatis prædictæ certificatorium de & ſuper executione mandati. Sibi pro ipſa viſitatione alias directi, coram eodem Reverendiſſimo Patre tunc ibidem exhibuit, ſub eo qui ſequitur verborum tenore. Reverendiſſimo in Chriſto patri ac Domino, Domino *Thomæ* Dei gratia *Cantuarienſis* Archiepiſcopo, totius *Angliæ* primati & Apoſtolici ſedis Legato, ejuſve Commiſſariis quibuſcunque, ſuus humilis & devotus filius Cancellarius Vniverſitatis *Cantabrigiæ*, *Elienſis Diœceſis*, tàm debitam quàm devotam obedientiam cum omni reverentia & honore debitis tanto Patri mandatum veſtrum reverendum nuper recepi, tenorem continens ſubſequentem. *Thomas* permiſſione, &c. Dilecto filio Cancellario Vniverſitatis *Cantabrigiæ*, *Elienſis Diœceſis*, noſtræ Provinciæ *Cantuarienſis*, ſalutem, &c. Quia nos in progreſſu viſitationis noſtræ Metropoliticæ in dicta Diocæſi exercenda, vos & dictam Vniverſitatem adjuvante Domino proponimus viſitare; vos tenore præſentium peremptorie Citamus & per vos omnes & ſingulos Doctores & Magiſtros regentes, & alias perſonas quaſcunque prædictæ Vniverſitatis qui noſtri viſitationi hujuſmodi intereſſe tenentur de conſuetudine vel de jure, citari volumus & mandamus, quod compareatis

pareatis & compareant coram nobis in domo Congregationis Vniverſitatis prædictæ decimoſeptimo die menſis *Septembris* proxime futuri, cum continuatione & prorogatione dierum tunc ſequentium, viſitationem noſtram hujuſmodi juxta juris exigentiam ſubituri, facturique ulterius & recepturi quod Canonicis convenit inſtitutis: & quid feceritis in præmiſſis nobis dictis die & loco debitè certificetis per *literas* veſtras patentes, hunc tenorem, una cum nominibus & cognominibus omnium & ſingulorum per vos in hac parte Citatorum in ſchedula eiſdem literis veſtris annectenda deſcriptis habentes, ſigillo veſtro conſignata: Datum in Manerio noſtro de *Lambeth* 18. die menſis *Auguſti*, anno domini milleſimo quadringenteſimo primo, & noſtræ tranſlationis anno quinto. Cujus auctoritate mandati omnes & ſingulos doctores & magiſtros regentes & alias perſonas quaſcunque prædictæ Vniverſitatis tempore receptionis dicti mandati veſtri, & nunc in dicta Vniverſitate exiſtentes, qui dictæ viſitationi veſtræ hujuſmodi intereſſe tenentur de conſuetudine vel de jure perſonaliter inventos, peremptoriè Citavi, quod compareant coram vobis aut veſtris Commiſſariis dictis die & loco cum continuatione & prorogatione prædictis viſitationem veſtram hujuſmodi juxta juris exigentiam ſubituri, facturique ulterius & recepturi quod in ea parte canonicis convenit inſtitutis. Quantum verò ad perſonam meam, dictis die & loco cum continuatione & prorogatione conſimili coram vobis ſeu veſtris Commiſſariis annuente domino perſonaliter comparebo facturus humiliter & recepturus quod dictum mandatum veſtrum exigit & requirit. Nomina vero & cognomina omnium & ſingulorum doctorum & magiſtrorum regentium, & aliarum perſonarum dictæ Vniverſitatis quarumcunque per me citatorum in ſchedula præſentibus annexa continentur: In cujus rei teſtimonium Sigillum officii mei præſentibus appoſui; Dat. *Cantebrigiæ* quoad ſigillationem præſentium. Idib. *Septembris* anno Domini ſupradicto. Quo certificatorio tunc ibidem incontinenti perlecto, idem reverendiſſimus Pater Archiepiſcopus ſupradictus ab eiſdem Cancellario, ac Doctoribus, magiſtris regentibus & perſonis aliis ſupradictis, & a ſingularibus perſonis eorundem obedientiam recepit canonicam. Et de-

inde examinavit dictum Cancellarium singulariter ac secretè & sub silentio, dictis doctoribus & magistris regentibus & aliis personis supradictis seorsim separatis, super iiis particularis, videlicet. *An statuta & laudabiles consuetudines Universitatis ab omnibus observentur?* Item, an *sint aliqui scholares in dicta Universitate mandatis & monitionibus dicti Cancellarii obtemperare nolentes?* Item, an *sint aliqui pacem & Unitatem in dicta Universitate perturbantes?* Item, an *communes cistæ & pecuniæ ac claves earundem fideliter conserventur?* Item, an *Magistri, Doctores Bacchalaurei & scholares debitè & fideliter perficiant formas suas, & meritis & scientia exigentibus ascendant gradus suos?* Item, an *sint aliquæ personæ suspectæ de Lollardia vel de hæretica pravitate?* Item, si *Doctores reputant & disputent publicè in scholis, & quotiens & quando?* Item, si *sit numerus sociorum completus in Aulis sive Collegiis dictæ Universitatis juxta ordinationem & voluntatem fundatorum?* Item, an *sint aliqui scholares aliquo notorio crimine irretiti seu infamati, vel non proficientes in studio, aut impedientes alios quo minus proficiant?* Item, *qualiter regitur eadem Universitas, videlicet in victualibus & aliis necessariis? &c.* Et examinatus fuit idem Cancellarius super *aliis Articulis* etiam in hujusmodi visitatione de jure requisitis. Aliis insuper Doctoribus, Magistris & personis aliis supradictis secundum quod de jure debuerunt secretè, & singulariter examinatis, & eorum dictis & depositis conscriptis in registro, idem reverendissimus Pater singula tunc ibidem successivè exercuit quæ in hujusmodi visitatione de jure quomodolibet fuerunt requisita.

Item, eodem die reverendissimus Pater per certos Commissarios suos visitavit *Collegium sanctæ Trinitatis Cantebrigiæ*, in capella ejusdem Collegii, comparentibus coram eisdem Commissariis Gardiano sive custode, una cum singulis suis consociis & scholaribus ejusdem collegii; quibus singulariter & secretè examinatis super statu & regimine ipsius collegii, & aliis articulis in hujusmodi visitatione de jure requisitis, & eorum dictis & depositis conscriptis in Registro, ab eisdem & eorum singulis, vice & auctoritate dicti reverendissimi Patris, obedientiam receperunt canonicam, & singula exercuerunt ibidem quæ de consuetudine vel de jure ulterius quomodolibet fuerint requisita; & exhibitum fuit certificatorum pro visitatione

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ne hujuſmodi per Gardianum ſive cuſtodem ſupradictum continens hunc tenorem. Reverendiſſimo in Chriſto patri ac Domino ſuoDomino *Thomæ*,&c.ejuſve Commiſſariis quibuſcunque ſuus humilis & devotus filius Gardianus ſive cuſtos Collegii Sanctæ *Trinitatis Cantebrigiæ*,*Elienſis Diocæſis*,tam debitam quàm devotam obedientiam, cum omni reverentia & honore debito tanto Patri, mandatum veſtrum reverendiſſimum nuper recepi, tenorem continens ſubſequentem. *Thomas* &c. dilecto in Chriſto filio Gardiano ſive cuſtodi Collegii Sanctæ *Trinitatis Cantebrigiæ*,*Elienſis Diocæſis*,noſtræque *Cantuarienſis* provinciæ ſalutem, &c. Quia nos in progreſſu viſitationis noſtræ Metropoliticæ *prædictæ Diocæſis* vos & Collegium veſtrum in perſonis & rebus annuente Domino, viſitare intendimus, tenore præſentium peremptoriè vos citamus, & per vos omnes & ſingulos conſocios & ſcholares prædicti Collegii citare volumus & mandamus, quod compareatis & compareant coram nobis & Commiſſariis noſtris in capella ſive domo capitulari prædicti Collegii decimo ſeptimo die menſis *Septembris* proximè futuri, cum continuatione & prorogatione dierum tunc ſequentium, viſitationem hujuſmodi juxta juris exigentiam ſubituri, ulteriuſq; facturi & recepturi quod canonicis convenit inſtitutis, & quid feceritis in præmiſſis nos aut Commiſſarios hujuſmodi dictis die & loco debitè certificetis per literas veſtras patentes, hunc tenorem, una cum nominibus & cognominibus omnium & ſingulorum ſociorum & ſcholarium per vos in hac parte citatorum in ſchedula eiſdem literis annectenda deſcriptis habentes. Dat. in manerio noſtro de *Lambeth* 18. die menſis *Auguſti* anno domini Milleſimo quadringenteſimo primo, & noſtræ tranſlationis anno quinto. Cujus auctoritate mandati omnes & ſingulos conſocios & ſcholares prædicti collegii in eodem collegio tunc præſentes perſonaliter invẽtos, peremptoriè citavi, aliis vero tunc abſentibus, infra tamen provinciam veſtram exiſtentibus,dictum mandatum veſtrum & viſitationem hujuſmodi intimari et notificari,eoſque præmuniri feci,quod dictis die et loco cum continuatione et prorogatione prædictis coram vobis ſeu veſtrisCommiſſariis compareant,viſitationem veſtram hujuſmodi juxta juris exigentiam recepturi,

facturique ulterius & recepturi quicquid dictum mandatum vestrum exigit & requirit; cæteros autem consocios et scholares dicti Collegii ab eodem Collegio tunc et nunc absentes, & in diversis remotis partibus etiam extra dictam provinciam agentes, non citavi nec præmunivi prout nec potui quovismodo: Quantum ad personam meam, prædictis die & loco cum continuatione & prorogatione prædictis, coram vobis seu Commissariis vestris, Dante Domino, personaliter comparebo, factura(que) humiliter & recepturus quod dictum, &c. In cujus rei testimonium Sigillum commune dicti Collegii duxi præsentibus apponendum. *Datum* Cantebrigiæ *in dicto Collegio quoad consignationem præsentium* 2° *Id.* Septembris, *Anno Domini supradicto.*

Visitatio { *Collegii de Clara, Collegii beatæ Mariæ, Procuratus Alborum Canonicorum*

Item, eodem die eisdem modo & forma idem Reverendissimus Pater visitavit per Commissarios suos *Collegium de Clare Hall Cantebrigiæ* in capella ejusdem Collegii: Et *Collegium Annunciationis beatæ Mariæ Cantebrigiæ* in capella ejusdem Collegii; ac *Prioratum Alborum Canonicorum Cantebrigiæ* in ecclesia ejusdem Prioratus, recepta obedientia Canonica, & singulis aliis exercitis in et circa loca præmissa quæ in visitationibus hujusmodi de jure fuerint quomodolibet requisita.

Item decimo nono die dicti mensis *Septembris* idem reverendissimus Pater Archiepiscopus supradictus per certos Commissarios, quos ad hoc sufficienter deputavit, visitavit *domum sive Prioratum Monialium Sanctæ Radegundis Cantebrigiæ*, Prioriſſam, ac singulas consorores et commoniales suas in dicta domo capitulari ejusdem prioratus, recepta ab eisdem et earum singulis obedientia Canonica, et ipsis secretè et singulariter examinatis, earumque dictis et depositis conscriptis in registro; similiterque aliis exercitis quæ in hac parte de jure fuerint requisita, ac sub modo & forma in aliis locis hujusmodi superius observatis seu recitatis.

Item, eodem die modo et forma in aliis Collegiis superius observatis, Dominus visitavit per Commissarios suos *Collegium Sancti Michaelis Cantebrigiæ* in capella ejusdem Collegii; et eodem die per Commissarios hujusmodi visitatum fuit *Hospitale*

tale ſive domus Sancti Johannis Cantebrigiæ in Eccleſia ejuſdem Hoſpitalis; & *Collegium Sancti Petri* in capella ejuſdem Collegii; ac *Collegium de Pembroke Hall Cantebrigiæ* in capella ejuſdem Collegii: et eodem die idem reverendiſſimus Pater iter arripuit verſus *Eccleſiam Cathedralem Elienſem*, pro ſua viſitatione hujuſmodi inibi exercenda; ubi eodem die a venerabili patre Domino *Johanne*, Dei gratia *Elienſi Epiſcopo*, ad ſuum palatium Elienſe cum ſe et ſuis honorificè fuit receptus.

This Archbiſhop having thus peaceably without any reſiſtance, viſited the Univerſity, Colledges and Schollers of *Cambridge* by his meer Metropoliticall right, as being within the Dioceſſe of *Ely*, and part of his Province (though in regard of their foundation and Buls of exemption from ſeveral Popes, they might have pleaded as ful an exemption from Archiepiſcopal and Epiſcopal juriſdiction and viſitation as the Univerſity of *Oxford*, which I could demonſtrate, if material) After this, in the yeer of our Lord 1411. he determined to viſit the Univerſity of *Oxford* in the twelft yeer of King *Henry* the fourth his reign; but comming thither to viſit, was repulſed by the Chancellour *Richard Courtney*, *Benedict Brent* and *John Birch* Proctors, and ſome Schollers of their faction, which *Thomas Walſingham* in his *Hiſtoria Angliæ*, and *Ypodigma Neuſtriæ* too (Anno Dom. 1411. thus relates: *Dominus Cantuarienſis dum nititur viſitare Univerſitatem Oxoniarum, repulſam paſſus eſt.* Whereupon the Archbiſhop complaining to the King of that affront, both parties referred themſelves to his royall determination of this Controverſie; who after a full hearing of both parties, the ſeventeenth day of *December*, in the twelft yeer of his reign, by deliberate advice of his Councel, confirmed the Order formerly made by King *Richard* the ſecond, over-ruled the Chancellours and Proctors pretences, (now revived and inſiſted on) *That the Univerſity was exempt from all Archiepiſcopall and Epiſcopall viſitation by the Bull of Pope* Boniface *the eight* (*which he declared null & prejudiciall to his crown, and they then renounced the ſecond time*) *and that the King was the onely and ſole Viſitor of the Univerſity as a Univerſity*; which he then likewiſe diſclaimed, and adjudged, *That the Archbiſhops of* Canterbury *ſhould and ought for ever after to viſit the Univerſity,*

Chancellour, Proctors, and all Doctors, Schollers and Members of the Univerſity whatſoever; and that if the Archbiſhops were hereafter diſturbed in their Viſitations of the Univerſity, all its Franchiſes, Liberties and Priviledges ſhould be ſeiſed into the King's hands till their ſubmiſſion thereunto; and they ſhould likewiſe pay a thouſand pound fine to the King for ſuch their diſturbance. Which reſolution and proceedings before the King in this cauſe being drawn up in writing and preſented to the King, Lords and Commons in the Parliament of 13. *Henry* 4. and there read before them, were they all ratified and confirmed by them, and enacted to *be of as great vigor and effect, as if they had been done and made in Parliament*; which is evident by the Parliament Roll it ſelf, An. 13. *H.* 4. *num.* 15. and by Archbiſhop *Parkers* Regiſter, fol. 269. a true tranſcript whereof (for the full conviction and ſatisfaction of all our preſent Oppoſers) I ſhall here inſert

Memorandum, quod venerabilis in Chriſto Pater *Thomas Archiepiſcopus Cantuarienſis* in præſenti Parliamento noſtro exhibuit quandam petitionem, una cum quadam ſchedula eidem annexa in hæc verba. *A Treſſovereigne Sr. Noſtre Sr. Le Roy Supplie humblement voſtre humble chapellein* Thomas *Archeveſque* de Canterbiis, *Que pleiſe a vous Treſſovereign Sr.* par aſſent de Signeurs *Eſperit aelx & Temporells, & les Comes in ceſt preſent Parlement, de graunteir approver, ratifier & confirmer tout ceſt queſt compris en un cedule, a ceſt bille annexe, & que meiſme ceſte cedule puiſſe eſtre enrollee & enacte in ceſt preſente Parlement ſelone la fourme & effecte de meſme le cedule, & que meſme la cedule & tout ceo queſt compris en icelle ſoient de taunt de force effecte & authorite, & meſme les force effecte & auctoritee eient & teignent, come ils uſſent eſtre faictx en ceſte Parlement & per auctoritee de meſme le Parlement.*

Memorandum, Quod cum *Richardus* ſecundus, nuper Rex *Angliæ*, propter diverſas diſſentiones, lites et diſcordias quondam habitas in *Univerſitate Oxonienſi ſuper jure & titulo viſitationis dictæ Univerſitatis, ac de quadam Bulla exemptionis prætenſa ad excludendum Archiepiſcopum* Cantuarienſem *tunc exiſtentem & Succeſſores ſuos, ac quoſcunque alios Ordinarios infra Univerſitatem prædictam, ac quoſcunque fundatores dictæ Univerſitatis ac Collegiorum ejuſdem Univerſitatis a viſitatione dictæ Univerſitatis, & ab omni*

juriſdictione

jurisdictione Ordinaria, per eosdem Archiepiscopum Ordinarium & fundatores & suos successores ac commissarios suos in eadem Universitate faciendi & exercendi per breve suum venire fecerit in Cancellaria sua apud Westmonasterium *Bullam prædictam*; & Cancellarius et Procuratores dictæ Universitatis tunc existentes sufficiens Warrentum sigillo commune Universitatis prædictæ sigillatum pro se et Universitate prædicta habentes, et secum in Cancellaria prædicta deferentes, ad exhibendum, publicandum ostendendum et præsentandum coram dicto nuper Rege in Cancellaria prædicta *Bullam prædictam*; necnon ad respondendum ibidem, et ulterius faciendum et recipiendum quod *per eundem nuper Regem & consilium suum ordinatum fuisset & definitum*, prout de recordo in eadem Cancellaria plenius liquet: ac postmodum iidem Cancellarii, et Procuratores *pro se & tota Universitate* prædicta submiserunt se de materiis prædictis Ordinationi et diffinitioni dicti nuper Regis: Qui quidem nuper *Rex, habita inde matura & plenior deliberatione cum consilio suo*, ac clarè considerans, *Bullam prædictam fore impetratam in præjudicium coronæ suæ, ac legum & consuetudinum Regni sui enervationem, & in Hæreticorum & Lollardorum, ac homicidiarum & aliorum malefactorum favorem, & audaciam, dictæq; Universitatis verisimilem destructionem*; *Ordinavit, & per breve suum præcepit & inhibuit* dicto Cancellario, Magistris, Doctoribus et Scholaribus Universitatis prædictæ, *in fide, Legeancia & dilectione quibus sibi tenebantur, ac sub pœna amissionis privilegiorum Universitatis prædictæ, & sub forisfactura omnium aliorum quæ sibi forisfacere poterant, ne dictam Bullam in aliqua sui parte exiqui, seu exercere, seu beneficium aliquod exemptionis per Bullam illam aliqualiter reportare seu recipere præsumerent, sed omnibus exemptionibus & privilegiis in ea parte contentis, coram tunc dilecto clerico suo notorio* Richardo Renhalle, *quem ad eos ex causa prædicta destinavit, palam & publicè, pro imperpetuò renunciarent*, ac super renunciationem hujusmodi quandam certificationem sibi sub sigillo dictæ Universitatis, ac publica instrumenta fieri, et sibi per eundem Clericum suum transmitti facerent, sub pœnis supradictis. Postmodum allegantur præfato Cancellario et aliis sibi adhærentibus nomine Universitatis prædictæ VISITATIONEM PRÆDICTAM AD DICTUM RICHARDUM NUPER REGEM

REGEM SOLUM ET INSOLIDUM PERTINERE; *considerans que, quod visitatio Vniversitatis prædictæ ad præfatum Archiepiscopum & successores suos, ac ad ecclesiam suam* Cantuariensem PERTINUIT ET PERTINERE DEBUIT; QUODQUE IPSE AUT PROGENITORES SUI CANCELLARIUM AC UNIVERSITATEM PRÆDICTAM RETROACTIS TEMPORIBUS MINIME VISITARE CONSUEVERUNT. Voluit & ex "certa scientia sua declaravit, quod visitatio Cancellarii ac Procura- "torum dictæ Universitatis qui pro tempore fuerint, necnon omnium "Doctorum, Magistrorum Regentium & non Regentium, ac Scho- "larium ejusdem Universitatis quorumcunque, eorumque servien- "tum, aliarumque personarum cujuscunque status vel conditionis ex- "stiterint libertatibus aut privilegiis dictæ Universitatis utentium "seu illis gaudere valentium, NECNON UNIVER- "SITATIS PRÆDICTÆ ETIAM UT UNI- "VERSITATIS, *ad præfatum Archiepiscopum & Successores* "*suos, ac ecclesiam suam prædictam* PERTINUIT ET PERTINERE DEBUIT, AC FUTURIS TEMPORIBUS PERTINERET. *Postmodumq; prædictus nuper Rex per diversa Brevia sua Cancellario, Procuratoribus, cunctis Doctoribus & Scholaribus Vniversitatis prædictæ præceperat, quod ipsi Archiepiscopo prædicto & successoribus suis in* visitatione sua prædicta in eadem Universitate facienda in omnibus sub pœnis prædictis parerent et obedirent; *Postmodumque sicut datum fuit intelligi Domino nostro Regi* Henrico *quarto post conquestum quod visitante* Thoma *Archiepiscopo* Cantuariensi *jure suo Metropolitico Diocæsi* Lincoln. *Anno Regni dicti* Henrici *Regis duodecimo, venit ad prædictam Vniversitatem* Oxonii *ad exequendam in forma juris ecclesiastici ibidem visitationem suam,* Richardus Courtnay *ad tunc* Cancellarius Universitatis *prædictæ, ac* Benedictus Brent *&* Johannes Birch *ad tunc* Procuratores *dictæ Vniversitatis, ac* quamplures alii eis adherentes, *in eadem Vniversitate dictum Archiepiscopum de visitatione sua prædicta & jurisdictione ejusdem Archiepiscopi* manuforti injuste impedierunt, et ei absque causa rationabili resistebant: *super quo diversæ lites dissentiones & discordiæ inter ipsum fatum* Thomam *Archiepiscopum &* eosdem Cancellarium

cellarium & Procuratores ac alios Scholares Univerſitatis *prædictæ eorumque fautores, de & ſuper jure & impedimento viſitationis, & juriſdictionis prædictarum, mota fuerint & exorta in Univerſitate prædicta, & ſuper hoc præſente* Thomâ *Comite* Arundel, *& aliis* perſonis honorabilibus *ſecum exiſtentibus in Univerſitate prædicta, tam Præfatus* Archiepiſcopus *pro ſe & Eccleſia ſua prædicta quam præfatus* Richardus Courtnay *Cancellarius Univerſitatis prædictæ* & Benedictus Brent & Johannes Birch Procuratores *ejuſdem Univerſitatis, pro ſe et eorum adhærentibus in materiis prædictis ac pro Univerſitate prædicta per aſſenſum eorundem adhærentium ſe* ſubmiſſerunt & conceſſerunt ſtare arbitrio judicio & ordinatione ac decreto illuſtriſſimi Principis & Domini dicti Domini noſtri Regis *Henrici* de & ſuper jure & impedimento viſitationis & juriſdictionis prædictarum per dictos Magiſtrum *Richardum* Cancellarium & ſibi adhærentes præſtito, ac diſſentionibus, Litibus & diſcordiis prædictis, & earum dependentiis, & ſuper hoc dictus Dominus noſter Rex *Henricus* dictum Magiſtrum *Richardum Courtney* Cancellarium ac dictos *Benedictum Brent & Johannem Birch* venire fecit coram eo in propria perſona apud *Lambeth* in craſtino Nativitatis beatæ Mariæ dicto anno Regni ſui duodecimo, ad faciendum & recipiendum quod per *eundem dictum Regem de adviſamento Conſilii ſui foret conſideratum in materiis prædictis*; & prædictus Archiepiſcopus ibidem coram præfato Domino Rege comparuit, & tàm præfatus Archiepiſcopus quam iidem Cancellarius & Procuratores ad tunc & ibidem coram dicto Domino Rege ſubmiſſionem prædictam in omnibus (ut prædictum eſt) fore factum in forma prædicta recognoverunt, & ibidem conceſſerunt ſtare arbitrio, judicio & *ordinacioni ejuſdem Domini noſtri Regis de & ſuper jure & impedimento viſitationis & juriſdictionis prædictorum ac aliis materiis & omnibus dependentiis earundem:* Qui quidem Dominus Rex poſtea 17. die menſis *Septembris* dicto anno duodecimo apud *Lambeth* prædictũ, auditis & intellectis tam allegationibus quam reſponſionibus partium prædictarum, & etiam habens conſiderationem ad dictam ſubmiſſionem factam tempore dicti Regis RICHARDI, ac ordinationem judicium & determinationem ſuper eandem ſubmiſſionem, tangentem viſitationem & juriſdictionem prædict. *ac clarè*

considerans, QUOD VISITATIO UNIVERSITATIS prædictæ etiam ut Universitatis, ET OMNIUM IN UNIVERSITATE PRÆDICTA COMMORANTIUM AD DICTUM ARCHIEPISCOPUM ET SUCCESSORES SUOS UT DE JURE ECCLESIÆ PRÆDICTÆ PERTINET ET DE JURE PERTINERE DEBERET, et quod iidem Cancellarius et Procuratores ac alii eis in hac parte adhærentes eundem Archiepiscopum de visitatione et jurisdictione prædictis INJUSTE & ABSQUE TITULO SEU RATIONABILI CAUSA MANIFORTI IMPEDIERUNT, dictum judicium, ordinationem & determinationem prædicti Richardi nuper Regis ratificavit, approbavit, & confirmavit PRO IMPERPETUO duraturæ; & ulterius tam auctoritate sua Regia quàm vivæ vocis submissionis prædictæ sibi factæ, ad tunc ibidem arbitratus fuit, ordinavit, consideravit, decrevit & adjudicavit, QUOD PRÆDICTUS ARCHIEPISCOPUS ET SUCCESSORES SUI IMPERPETUUM HABEANT VISITATIONEM ET JURISDICTIONEM IN UNIVERSITATE PRÆDICTA TAM CANCELLARII COMMISSARII, quàm Procuratorum EJUSDEM UNIVERSITATIS QUI PRO TEMPORE FUERINT; NECNON OMNIUM DOCTORUM, MAGISTRORUM REGENTIUM & non Regentium ac Scholarium ejusdem Universitatis quorumcunque, eorum servientium, aliarumque personarum cujuscunque status vel conditionis existerint, ET ETIAM EJUSDEM UNIVERSITATIS ET UNIVERSITATIS; & quod Cancellarius, Commissarius, et Procuratores Universitatis prædictæ qui pro tempore fuerint, eorum Successores, et omnes alii in dicta Universitate pro tempore commorantes, futuris temporibus eidem Archiepiscopo et Successoribus suis in visitatione et jurisdictione Universitatis prædictæ etiam ut Universitatis, in omnibus pareant et obediant; et quod nec aliquis alius in Universitate prædicta aliquod privilegium seu beneficium exemptionis ad excludendum præfatum Archiepiscopum seu Successores suos de visitatione et jurisdictione

prædictis

prædictis in Universitate prædicta colore alicujus Bullæ seu alterius tituli cujuscunque erga prædictum Archiepiscopum seu Successores suos clamant, habeant seu vendicent ullo modo in futuro: et quod quotiens Cancellarius, Commissarius vel locum tenens ipsorum, vel alicujus ipsorum, vel Procuratores dictæ Universitatis, qui pro tempore fuerint, vel eorum Successores; sive aliquis eorum impedierint, vel impedierit prædictum Archiepiscopum vel Successores suos aut ecclesiam suam prædictam, aut ipsorum vel alicujus ipsorum Commissarium vel Commissarios de hujusmodi visitatione seu jurisdictione dictæ Universitatis, vel in aliquo contravenerint dictis arbitrio, ordinationi sive judicio per prædictum *Richardum* nuper Regem factum, sive arbitrio, judicio, decreto, considerationi vel ordinationi ipsius Domini nostri Regis *Henrici* in hac causa; vel si aliquis dictæ Universitatis in futurò impedierit dictum Archiepiscopum vel Successores suos, aut Ecclesiam suam prædictam, aut ipsorum vel alicujus ipsorum Commissarios vel Commissarium, de visitatione sua aut jurisdictione antedictis, vel in aliquo contravenerit dicto arbitrio sive judicio per prædictum *Richardum* nuper Regem in forma prædicta facto, vel arbitrio, judicio, decreto considerationi seu ordinationi ipsius Domini nostri Regis *Henrici*; & quod Cancellarius, Commissarius Procuratores Universitatis prædictæ tunc non fecerint diligentiam & posse eorum ad adjuvandum dictum Archiepiscopum vel Successores suos aut Ecclesiam prædictam, seu Commissarium vel Commissarios de visitatione aut jurisdictione antedictis, vel in aliquo contravenerint dictis arbitrio ordinationi sive judicio per prædictum *Richardum* nuper Regem in forma prædicta factis, vel arbitrio, judicio, decreto, considerationi seu ordinationi ipsius Domini nostri Regis *Henrici*; & quod Cancellarius, Commissarius & Procuratores Universitatis prædictæ tunc non fecerint diligentiam & posse eorum ad adjuvandum dictum Archiepiscopum & Successores suos aut Ecclesiam suam prædictam, seu *Commissarium vel Commissarios suos in hujusmodi Casu, ac etiam ad punicndum hujusmodi impedientes & resistentes*; Quod totiens omnes Franchesiæ, libertates, ac omnia privilegia ejusdem Universitatis in manus Domini Regis vel hæredum suorum

seisiantur, in eisdem manibus ipsorum Domini Regis vel hæredum suorum remansura quo usq; prædictus Archiepiscopus vel Successores sui pacificam visitationem ac jurisdictionem in formâ prædicta in dicta Universitate habuerit vel habuerint, & etiam totiens Cancellarius, Commissarius, & Procuratores ejusdem Universitatis qui pro tempore fuerint & eorum Successores, ac Universitas prædicta solvant & teneantur, solvere ipso Domino nostro Regi *Henrico* & hæredibus suis *mille libras* legalis monetæ *Angliæ*: Quæ quidem cedula visa ac cum matura & diligenti deliberatione examinata & intellecta, dictus Dominus Rex in pleno Parliamento asseruit & declaravit, *omnia & singula in eadem schedula contenta per ipsum secundum quod in eadem continetur facta, arbitrata, ordinata, considerata, decreta & adjudicata in omnibus esse & extitisse*: & sic de assensu Dominorum Spiritualium & Temporalium necnon Communitatis in eodem Parliamento existentium qui super eisdem pleniorem deliberationem similiter habuerunt & eisdem decreto & judicio plenariè consenserunt & agreaverunt, eandem cedulam & omnia & singula in eadem contenta concessit approbavit, ratificavit & confirmavit: Quodque eadem schedula in Rotulo parliamenti secundum formam & effectum ejusdem irrotularetur & inactaretur, ac etiam quod eadem schedula & omnia in ea contenta sunt tanti et talis valoris effectus et authoritatis, et eosdem valorem effectum et authoritatem habeant et teneant ac si in præsenti Parliamento, ac per auctoritatem ejusdem Parliamenti facta extitissent.

Et puis apres sur diverses matieres moeney par entre le dit Erceveſque et *Lerceveſque Deverwyke* sur certaines privileges pretenses par le dit Erceveſque Deverwike pour le *College* appellee *Queen-hall*, en la *Vniverſity Oxenford*, le dit *Erchevesque de Canterbiis* en presence du Roy et des Signeurs en le dit Parlement *proviſt, que ſe le dit* Erchevesque Deverwyck *purroit ſufficientment monſtrer aſcun privilege au eſpecialtee de recorde perount le dit Erveveſque de Canterbiis ne deuſt uſer ne exercer ſa viſitation du dit College, il ſe vorroit eut abſtinier; Sauvant a Luj toutesfois la viſitation de les Eſcoliers demourantez en le dit College ſolone les jugementx & decrees faictz & donnez par le dit Roy* Richard, *& par noſtre Signeur le Roy* Henry *preſt come en le recorde eut fuit plus plenement eſt declarez.*

This

This Act is likewiſe recorded even by *Robert Hare* himſelf, in his *Collectio Libertatum & Privilegiorum Univerſitatis* Oxon.

Lo here a full and punctuall reſolution of two ſucceſſive Kings, *Richard* the ſecond and *Henry* the fourth, and of the Lords and Commons in Parliament againſt the preſent pretended Priviledge and Plea of the Univerſity of *Oxford* and their Delegates, which ſubverts all the grounds of their feigned exemption from all other Viſitors but the King, either by foundation, preſcription or papall Buls and Grants.

This Archbiſhop *Arundel* not onely viſited the Vniverſity of *Oxford*, but likewiſe held a Provinciall Councell therein *Anno Dom.* 1408. in which he made a conſtitution concerning the Heads and Wardens of the Vniverſity, thus entituled, *Gardiani principales & Præpoſiti Vniverſitatis* Oxonienſis, *ſemel in ſingulis menſibus inquirant de moribus & Doctrina ſuorum Scholarium* (and that under pain of deprivation, in caſe of wilfull neglect) which Conſtitution is recorded at large by *Johannis de Aton*, Conſtitutiones Legit. fol. 154. Yea, * *Phillip Repingdon* Biſhop of *Lincoln* ſent forth his Citations for a viſitation to the Univerſity of *Oxford*, as their Diocæſan, intended to be held by him in St *Maries* Church in *Oxford*, dated, *apud Leiceſt.* 12. *Feb. Anno Dom.* 1415. (being the firſt yeer of *Henry* the fift his reign) to which the Univerſity, as to ſome particulars readily ſubmitted, as is evident by their anſwer to him, viz. *That they intended to make* PERSONAL APPEARANCE *to his Summons at the time and place appointed, Recepturi quæ ad Officium inquiſitionis hæreticæ pravitatis duntaxat pertinere noſcuntur. Sub hac tamen proteſtatione, quod per illam perſonalem comparitionem non intendimus in vos conſentire* SUPER QUIBUSCUNQUE ARTICULIS. *(hæreticæ pravitatis duntaxat exceptis)* &c. Datum apud *Oxon.* 4° menſis *Martii* Anno Dom. 1413. A cleer evidence, that by the repeal of the Popes Buls of exemption in Parliament, 13. *H.* 4. not onely the Archbiſhops of *Canterbury*, but likewiſe the Biſhops of *Lincoln's* juriſdiction over, and viſitation of the Univerſity of *Oxford* as their Dioceſan, was revived and ſubmitted to, at leaſt in caſes of Hereſie.

* Ex memorand. *Phillip Repingdon*, Epiſt. Lincol. f. 196.

And in this very yeer 1413. this Archb. *Arundel* made certain Statutes for the government of the Univerſities of *Oxford* and *Cambridge*, as *Antiqu. Eccleſ. Brit.* relates, p. 309. the greateſt badge of his juriſdiction over them.

Anno Dom. 1417. *Henry Chichley* Archbiſhop of *Canterbury* upon the frequent and grievous complaints of divers in both Vniverſities, made a Conſtitution and Ordinance in full convocation, to endure for ten yeers, touching the promotion of *Graduates* in the Vniverſities of *Oxford* and *Cambridge*, enrolled in his Regiſter, fol. 13, & 14.

John Morton Archbiſhop of *Canterbury*, in the yeer of our Lord 1490. viſited divers Dioceſſes within his Province, and among others the Dioceſſe of *Lincoln*, wherein the Vniverſity of *Oxford* then was, *Antiq. Eccleſ. Brit.* p. 342, 343. in which viſitation it is probable he viſited the Vniverſity, as part of that Dioceſſe, though I find no expreſſe mention of it.

Anno Dom. 1557. *Reginald Poole* Archbiſhop of *Canterbury*, viſited the Vniverſities of *Oxford* and *Cambridge* by his Delegates, the Hiſtory whereof is recorded at large in Maſter *Fox* his Acts and Monuments, Vol. 3. Edit. 1640. p. 762. to 780. and epitomized in *Antiqu. Eccleſ. Brit.* p. 422. which Viſitation ſome ſay he kept onely as Popes Legat, not in his Metropolitical right, though I conceive he viſited in both thoſe capacities; altering and reforming the Statutes of both Vniverſities, and making new ones of his own for them to obſerve, yet extant among their Records.

An. 19. of Queen *Elizabeths* reign, *Edmund Grindall* Archbiſhop of *Canterbury* and his Commiſſary, received an Appeal from *William Wyſan* elected Rector of *Lincoln*-colledge in *Oxford*, whom the Biſhop of *Lincoln* and his Delegates (Viſitors of that Colledge) refuſed to admit, and thereupon granted an Inhibition to the Biſhop and his Viſitors, and ſummoned them to appear before him to determine this election, as appears by the Queens Commiſſion to examine this buſineſſe, dated 23. *Apr.* 19. *Eliz.* endorſed on the Rolls of that yeer.

In the twelft yeer of King CHARLES *William Laud* Archbiſhop of *Canterbury* intending to viſit both Univerſities by his Metropolitical Right, the Univerſities revived this Plea againſt

against his jurisdiction, which had rested in peace without any controwersie from K. Henry the 4th his resolution, *Anno* 1612. till that very yeer 1635. The Universities alleaged, that the King onely was and ought to be their sole Visitor, and that they were exempt from all Archiepiscopal and Episcopal visitation by foundation, prescription, papall Buls, royall Charters and expresse Statutes; & the Vice-Chancellour, and Heads of the University of *Cambridge*, on the 24. of *December* 1635. presented this ensuing Paper to the Archbishop, against his Metropoliticall power to visit them (comprizing in it whatever the University of *Oxford* hath alleaged, or can colorably object against their present visitation): *the Originall whereof I have in my custody, endorsed with the Archbishop's own hand.*

A Summary Brief *or Extract of the* REASONS *wherefore the* University *of* CAMBRIDGE *is exempt both from* Archiepiscopal *and* Episcopal Jurisdiction *and* VISITATION.

IT being laid for a ground, that the Chancellour of the University as *Ordinarius*, hath, and of *ancient time had ordinary jurisdiction within the University*, as may appear, as well by the Letters patents of King *Richard* the second, under the great Seal of *England*, of a grant to the Chancellour, to make a significavit into the Chancery of his excommunications, as Bishops used to do: whereupon the Writ of *De excommunicato capiendo* was to issue; as also, by a multitude of presidents, of the exercise of spirituall Censures and Jurisdictions; amongst which it doth appear, that in the time of King *Edward* the first, *the Chancellour of the University did excommunicate the Bailiffs of Cambridge for infringing the Priviledges of the University*: and in the time of King *Henry* the eighth, *John Edmunds* then Master of *Peter-house*, and Vice-Chancellour of the University did excommunicate Dr *Cliffe*, Chancellour to the

b 2 Bishop

Biſhop of *Ely*, for excommunicating a priviledged man, and the matter comming before Cardinal *Woolſey* the Popes Legate, it was ordered for the Univerſity; and Doctor *Cliffe* ſubmitted to the ſaid Vice Chancellour, and was abſolved by him publikely in the Vniverſity.

In the firſt place,

f Note this, the very firſt Plea of our *Oxonians* now.

The Univerſity of Cambridge *is* Studium generale, *and* Communitas Clericorum; *and it is* f *one of the royall Prerogatives of the Kings of* England, *that where they are founders of Monaſteries, Colleges, or other Religious places, ſuch Religious places ſo founded are* eo ipſo *exempt from Epiſcopall and Archiepiſcopall Juriſdiction, and are onely to be viſited by perſons delegated by the King's Majeſty, by Commiſſion under the great Seal of* England.

That the Univerſity is of the *royall foundation of the King's Progenitors or Predeceſſors*, it appears not onely by authentick Hiſtorians, but alſo by a Petition exhibited by the Chancellour and Schollers of the Univerſity, 5. *R.* 2. to the King in Parliament, concerning the Townſmen of *Cambridge* burning their Charters and other Writings and Muniments, &c. And the reaſon of the Petition is given, *Cum dicta Univerſitas* Cantebrigiæ *ſit ex ordinatione & fundatione illuſtrium Progenitorum veſtrorum, propter honorem Dei & Sanctæ Eccleſiæ.* which Petition was accepted, and a Decree thereupon made in Parliament againſt the Townſmen.

2. The Popes of *Rome* untill 26. *H.* 8. did uſurp upon the Imperial Crown of the Realm, and did aſſume to themſelves a ſuperiority and ſupremacy in all matters of Eccleſiaſtical government, and *in very ancient times there were Grants, Reſcripts or Buls to free the Univerſity from the juriſdiction of the Biſhop of the Dioceſſe, and of the Archbiſhop.*

g The ſame with the *Oxonians* ſecond Plea, in words and ſubſtance.

Pope *John* the two and twentieth, in the eleveneh yeer of the reign of King *Edward* the ſecond, and at his requeſt, doth *confirm to this Univerſity* (which he called *Studium generale*) *all manner of Priviledges and Indulgences before that time granted to it by any of his Predeceſſors, or any Kings of this Realm.*

The Prior of *Barnwell* alſo, *Anno Dom.* 1430. as delegate

to

to Pope *Martin* the fift, by vertue of that power committed to him, *confirmeth the jurisdiction and exemption of the University by an authentick instrument under the seal of the said Pryor and his Covent*, called, *Processus Barnwellensis*, the Original whereof is still in *Archivis Academia*.

Pope *Eugenius* Anno Dom. 1433. being 12. *H.* 6. reciting the Buls of Pope *Honorius* & *Sergius primus* (the which were [n] seven hundred yeers before that time) *for the freeing of the University from the jurisdiction of the Bishop and Archbishop*, and reciting the processe of *Barnwell*, *doth confirm the same, and supplies all defects*, as appeares by the Original in Parchment in *Archivis Universitatis*.

n I doubt these pretended Buls were meer forgerics and buls indeed.

3 There is a [o] *constant custome and prescription for the freeing of the University from the jurisdiction of the Bishop and Archbishop*; And a Prescription and Custome will prevail in this case, as well upon the *canon Law*, as it will upon the *municipal* and *fundamental Lawes of the Kingdom*: and the rather, because the *canon Law* had his force in this Realm by usage and custom: And to prove, that this Custome and Prescription was ancient in the time of *Henry* the sixt; it appears by the foresaid instrument under the seal of the Prior of *Barnwell*, termed *Processus Barnwellensis*, that the Masters, Doctors and Schollers of the University, for the preserving of their immunities and exemptions from the Bishop and Archbishop (their Charters and Buls from the Popes being lost or burnt) did addresse themselves by Petition to Pope *Martin* the fift, who did make a Commission Delegate to the Prior of *Barnwell* and *John Deeping*, and to either of them to enquire, &c.

o The *xouians* third Plea in words and substance.

The Prior takes upon him the execution of the Commission; the University in the Regent house make a Proctor under the common Seal: There are seven Witnesses examined who speak for the time of their memory, some of *them for sixty yeers, that (by all that time) the Chancellour of the University had exercised Ecclesiastical jurisdiction within the University*, and names *Richard Scroop*, and eleven other Chancellours of the University, and [p] *that no Archbishop or Bishop did interpose*; and doth instance Doctor *Fordham* Bishop of *Ely*, comming to *Cambridge with an intention to visit the Univesity, when he understood of the*

p This was direct perjury, since Archbishop *Arundel* visited that University, & all Colledges in it *An.* 1477 not 30. yeers before, p. 3. 54. &c.

Priviledge of the Vniversity, he did supersede. Sithence that Processe, being above two hundred yeers ago, there have been fourteen Archbishops of *Canterbury*, and sixteen Bishops of *Ely*, and *none of them have visited the Vniversity of* Cambridge, *notwithstanding they have visited their Dioceſſe and Province.*

p The *Oxonians* fourth Plea in substance and words.

4. Not insisting on sundry p *ancient Charters* of former Kings; King *Edward* the second, An. 11. of his reign, writes to Pope *John* the two and twentieth for *confirming the ancient Priviledges which the Vniversity then used, with augmentation of new;* the which is in the Tower of *London*, and was under the great Seal of *England*. And 22. *Maii* 36. *Edw.* 3. that *King directeth Letters Patents to the Archbishops, Bishops and Ecclesiasticall persons by way of Prohibition, that Schollers should not be cited into Ecclesiasticall Courts out of the Vniversity:* And 6. *Hen.* 5. when a Commission was granted for the enquiring and correcting of Hereticks, according to the Statute of 2. *Hen.* 5. there is this clause; *Nolumus tamen quod aliquis vestrum de aliquo præmissorum quæ per privilegia & libertates Vniversitatis per Cancellarium ejusdem Vniversitatis solummodo corrigi & terminari debent, colore præsentis commissionis nostræ in aliquo intromittatis.*

In the Letters Patents of King *James* of blessed memory, in *March* 20. of his reign, he first declares his intention to *confirm the Priviledges and Customes used in the Vniversity:* Secondly, he doth in expresse terms *confirm the jurisdiction as well spirituall as temporall, the Priviledges, Quietances and Exemptions,* not onely by the Grants of his Progenitors, *vel aliarum personarum quarumcunque,* but also *prætextu aliquarum Chartarum, donationum, consuetudinis, præscriptionis, &c.* And thirdly, Grants that *the Chancellour, and* (in his absence) *the Vice-chancellour shall visit Colledges which have no speciall Visitor,* which Charter is also *ex mero motu & certa scientia.*

5. It appears by the Statute of 25. *H.*8. cap. 19. & 21. that albeit the supremacy in causes Ecclesiastical be resumed to the Crown from the Pope, yet no part of that power which the Pope or Archbishop of *Canterbury* (as his Legat) in any wise ever had, is invested In the Archbishop; but it is q *especially provided,* That in the *case of Monasteries, Colleges, &c. exempt from Episcopall power, and immediately subjected to the Pope, the*

r Alledged by the *Oxonians* too.

Visitation

Viſitation ſhall not be by the Archbiſhop, but by Commiſſioners to be nominated by the King by his commiſſion under the great Seal. It is true, that by the Statute of 31. *H.* 8. in a proviſo therein contained, there the *Biſhop and Archbiſhop have a power given unto them over Monaſteries, Colledges, &c. which before were immediately ſubjected to the Pope*; but that enlarging of the power of the Archbiſhop doth extend *onely to Religious houſes diſſolved*; it doth not *extend to the Univerſity*: and the Statute of 1. *Phil.* & *Mary* cap. 8. repealing the Statutes made againſt the Pope's Supremacy, and giving power to the Archbiſhop, &c. *to viſit in places exempt*, hath a *ſpeciall proviſo* thereby, *not to diminiſh the Priviledges of the Univerſities of* Oxford *and* Cambridge, *nor the Priviledges granted to the church of* Weſtminſter, Windſore, *and the* Tower.

There is no new power given to the Archbiſhop by the Statute of 1. *Elizabethæ*, and this appears evidently in the proviſo therein touching the Viſitation, for (if he will viſit) he muſt be *having juriſdiction*, and *he muſt viſit onely within his juriſdiction*, and the power is alſo *given to Ordinaries within their juriſdictions*.

6. [i] *Preſidents and examples in the very poynt*; wherein not to inſiſt upon the preſident of any Archbiſhop before the time of 26. *H.* 8. in as much as the Pope then being reputed the *Supream head of the church*, and the Archbiſhop of *Canterbury* having a *Legatine power*, his acts then are not to be enſampled to the ſucceeding Archbiſhops, who have not any power *in the poynt in queſtion touching viſitation, from the Pope*; but what hath been done ſithence is moſt materiall, and that time hath taken up above an hundred yeers, which by the Canon Law is accounted not onely *tempus antiquum*, but *tempus antiquiſſimum*.

[i] The *Oxonians* Argument too.

The firſt Viſitation of the Univerſity, ſithence that time was 27. *H.* 8. when the Lord *Cromwel* was Chancellour of this Univerſity, and the ſame was by **commiſſion under the great Seal of England* (to the Lord *Cromwel* Chancellour, and others) according to the foreſaid Statute of 25. *H.* 8. The ſecond viſitation was [k] 3. *Edw.* 6. and as it doth appear by the Letter of the Duke of *Somerſet* the then Chancellour of the Univerſity, that *viſitatio Regia* was, by reaſon that he was moved by

* There is no ſuch Commiſſion to be found.

[k] This Commiſſion is extant.

the Letters of the Univerſity to ſend Viſitors: he being then Protector was not in Commiſſion.

In the third and fourth yeer of the reign of *Phillip* and *Mary* (the Pope being reſtored to his uſurped power) Cardinal *Poole* did viſit the Univerſity; but it appears in the proceſſe, that it was as *Legatus*, by Commiſſion from the Pope, *cui Papa commiſit viſitationem & reformationem ſtudiorum generalium*: which clauſe, together with the proviſo in the ſaid Statute 1, & 2. *Phil.* & *Mary*, proveth, that this Viſitation was not *authoritate Metropolitica*.

And laſtly, there was a *Royall Viſitation* 1. *Eliz.* by [m] Commiſſion under the great Seal, to Sir *William Cecill*, then the Chancellour of the Univerſity, and to others: The Queens Letter before the ſaid Viſitation, to Sir *William Cecill*, is, *Becauſe the chief order and governance of Our Univerſity of* Cambridge *appertaineth to you, being the chancellour of the ſame, &c. Wee thought meet to will you in Our name to give ſignification, that We mean very ſhortly, with your advice, to viſit the ſame by ſome diſcreet and meet perſons.*

[m] There is no ſuch Commiſſion extant in the Rols.

Yet notwithſtanding all theſe reaſons, preſented by the Univer. of *Camb.* & others of like nature ſent from *Oxf.* amplified by councell, upon a full & deliberate hearing of both parties before the King himſelf & the Lords of the privy Counſel at *Hampton court*, the King and Lords reſolved againſt the Univerſities claims and reaſons, and confirmed the ancient Declarations and Reſolutions of King *Richard* the ſecond, and *Henry* the fourth, diſclaiming this new revived Monopoly, *of the King's ſole right of viſiting the Univerſities*, they would attribute to him as his Royall Prerogative, and their grand Priviledge and Birthright (which they are bound by oath and duty to maintain) as this enſuing Charter of King *Charles* himſelf will demonſtrate, to their eternall refutation.

Anno

Anno duodecimo CAROLI, *pars ſexta Novemb.* 2.

Commiſ. viſitat. Archiepiſcopo Cant.

REX *omnibus ad quos, &c. Suborta nuper lite & controverſia inter Reverendiſſimum in Chriſto Patrem Archiepiſcopum* Cantuarienſem, *& Univerſitates noſtras* Oxonii & Cantebrigiæ *ſuper* jure & titulo viſitationis Metropoliticæ Univerſitatum prædictarum, præfato Archiepiſcopo jus viſitandi prædictas Univerſitates ſibi & Eccleſiæ ſuæ Metropoliticæ Chriſti *Cantuarienſi* vendicante; præfatiſque Univerſitatibus ſe a viſitatione prædicta exemptas eſſe pretendentibus; liteque & controverſia prædictis, ad Nos & judicium & ſententiam noſtram Regiam delatis, *Nos ad ſtabiliendam pacem inter partes prædictas & ad tollendam in perpetuum hujuſmodi controverſiæ materiam, Reverendiſſimum in Chriſto Patrem prædictum & perquàm fidelem Conſiliarium noſtrum* Willielmum, *providentia divina Archiepiſcopum* Cantuarienſem *totius* Angliæ *Primatum & Metropolitanum, & Univerſitatis* Oxonii *Cancellarium, Necnon perdilectum & perquàm fidelem conſanguineum & Conſiliarium noſtrum* Henricum *Comitem* Holland, *Univerſitatis* Cantebrigiæ *Cancellarium, alioſque* nonnullos a prædictis Univerſitatibus mandata ſufficientia habentes, venire fecimus coram Nobis & Conſiliariis Noſtris *in Aula Noſtra apud honorem Noſtrum de* Hampton Court *viceſſimo primo die menſis* Junii, *Anno Regni Noſtri duodecimo*; *ibidemque* auditis & intellectis quæ per partes prædictas hinc inde dici & allegari potuerunt, habitaque cum præfatis Conſiliariis Noſtris deliberatione matura, ad definiendam & dejudicandam litem & controverſiam prædictam proceſſimus in modum ſequentem. Primò & ante omnia per probationes legitimas *& per* confeſſionem utriuſque partis, *Nobis conſtabat*, Nos jure Coronæ noſtræ Regni *Angliæ* habuiſſe & habere poteſtatem viſitandi Univerſitates prædictas quoties & quandocunque Nobis & Succeſſoribus noſtris viſum fuerit: *præfatumque* Archiepiſcopum jure Eccleſiæ ſuæ Metropoliticæ

Chriſti Cantuarienſis habuiſſe, & habere poteſtatem viſitandi totam Provinciam ſuam *Cantuarienſem*, in qua Univerſitates prædictæ poſitæ ſunt. *Cum verò ex* parte Univerſitatum *propoſitum eſſet*, Univerſitates prædictas per quaſdam Chartas noſtras & Prædeceſſorum noſtrorum,& Bullas Papales fuiſſe exemptas & immunes ab omni viſitatione & juriſdictione Archiepiſcopi prædicti, eandemque immunitatem ligitima temporis uſu fuiſſe præſcriptam; ex parte præfati Archiepiſcopi coram Nobis oſtenſum & probatum fuit, tres Prædeceſſores ſuos Archiepiſcopos *Cantuarienſes* actualiter viſitaſſe Univerſitates prædictas jure Eccleſiæ ſuæ Metropoliticæ Chriſti *Cantuariensis*, & non per poteſtatem legitimam; ortaque olim lite inter Archiepiſcopum *Canturienſem* & Univerſitatem *Oxon.* ſuper jure viſitationis prædictæ tempore *Richardi* ſecundi Prædeceſſoris Noſtri, Regis *Angliæ*, eundem Prædeceſſorem Noſtrum plenè auditis quæ per partes utrinque proponi potuerint, pro Archiepiſcopo & jure viſitationis ſuæ judicaſſe; eademque controverſia iterum emergente inter Archiepiſcopum *Cantuarienſem* & Univerſitatem *Oxon.* tempore *Henrici* quarti Prædeceſſoris Noſtri Regis *Angliæ*, eundem Prædeceſſorem Noſtrum ſimiliter pro Archiepiſcopo prædicto & JURE VISITATIONIS SUÆ PRÆDICTÆ PRONUNCIASSE ET DETERMINASSE, EASDEMQUE SENTENTIAS ET DETERMINATIONES PER ACTUM PARLIAMENTI Anno tertiodecimo *Henrici* quarti fuiſſe ratificatas & confirmatas. Quinetiam Nobis conſtabat, prædictas exemptiones & immunitates a viſitatione Metropolitica Archiepiſcopi *Cantuariensis*, vel earum aliquam, per aliquam Chartam Noſtram vel Prædeceſſorum Noſtrorum non fuiſſe conceſſas, eaſdemque per Bullas Papales concedi non potuiſſe, nec per curſum temporis citra actuales viſitationes Archiepiſcoporum prædictorum fuiſſe legitimè præſcriptas, nec de jure Noſtro Eccleſiaſtico potuiſſe præſcribi: præfatuſque Archiepiſcopus coram Nobis protulit ſchedulam ſubſcriptam manibus Magiſtrorum Collegiorum Univerſitatis *Cantebrigienſis* in qua Magiſtri pro ſe & Univerſitate ſua, privilegiis & immuntatibus Papalibus Univerſitati prædictæ conceſſis, renunciabant

clabant. *Quibus omnibus per Nos consideratis*, habitaque deliberatione cum præfatis consiliariis Noſtris, JUDICAVIMUS ET DETERMINAVIMUS JUS VISITANDI CANCELLARIOS, MAGISTROS ET SCHOLARES UNIVERSITATUM PRÆDICTARUM, SUCCESSORUM SUORUM, EORVMQUE SERVIENTIUM, ALIARUMQUE PERSONARUM PRO TEMPORE EXISTENTIUM LIBERTATI ET PRIVILEGIIS UNIVERSITATUM PREFAT. UTENTIVM, NECNON UNIVERSITATUM PRÆDICTARVM VT VNIVERSITATES, SPECTARE ET PERTINERE ad præfatum Archiepiſcopum & SVCCESSORES SVOS & Eccleſiam Metropoliticam prædictam, PER SE, COMMISSARIVM SEV COMMISSARIOS SVOS EXERCENDVM: Et quod præfati Cancellarii, Magiſtri, Scholares, & reliquæ perſonæ Privilegiis Univerſitatum utentes, eorumque Succeſſores, PERPETVIS FVTVRIS TEMPORIBVS EIDEM ARCHIEPISCCPO ET SVCCESSORIBVS SVIS, EORVMVE COMMISSARIIS IN VISITATIONE ET JVRISDICTIONE VNIVERSITATVM PRÆDICTARVM IN OMNIBVS PAREANT ET OBEDIANT. Cum vero coram Nobis præterea proponeretur non ſatis conſtare *quoties & viſitatio prædictarum Univerſitatum exerceri debeat*, ad amputandas ſimiles controverſias in futuro, Ordinavimus, *quod licebit præfato Archiepiſcopo & Succeſſoribus ſuis* VISITARE VNIVERSITATES PRÆDICTAS NON TANTVM SEMEL IN VITA, ſicut in reliquis partibus Provinciæ *Cătuarienſis* nuper viſitat. fuit, verũ ETIAM QUOD LICEBIT IIS EORUMQUE SINGULIS POST PRIMAM VISITATIONEM METROPOLITICAM FINITAM PRÆDICTAS VNIVERSITATES PER SE VEL COMMISSARIOS SVOS VISITARE QVOTIESCVNQVE ILLVD NECES-

NECESSARIVM PRÆFATIS ARCHIEPISCOPIS VISVM FVERIT EX CAVSA RATIONABILI ET LEGITIMA PER NOS ET SVCCESSORES NOSTROS PRIMITVS APPROBANDA. *Cumque præterea coram Nobis proponeretur, ex parte Cancellarii prædicti, futurum valdè incommodum ſibi & ſucceſſoribus ſuis pro dignitate perſonarum ſuarum,* ſi in viſitationibus prædictis perſonaliter debeant comparere; *declaravimus,* jure ſatis conſultum eſſe eorum incommodis in hac parte, cum poſſint in viſitationibus prædictis per Procuratores ſuos comparere. *Denique per præfatum Archiepiſcopum a Nobis humiliter petitum fuit,* hoc Noſtrum judicium & declaratio poteſtatis viſitandi Vniverſitates prædictas ſibi & ſucceſſoribus ſuis jure Eccleſiæ Metropoliticæ Chriſti *Cantuarienſis,* competent. non poſſint in futuro extendi ad EPISCOPOS ET ARCHIDIACONOS LOCORVM IN QUIBUS VNIVERSITATES PRÆDICT. POSITÆ SVNT: Et ut præfatæ Vniverſitates per præfatos Epiſcopos & Archidiaconos IMPOSTERVM NON POSSINT VISITARI: *Et ut hoc noſtrum judicium, ordinationem & determinationem ſub* magno ſigillo *Angliæ* concedere confirmari dignaremus; *cujus petitioni annuentes, declaravimus,* QVOD VNIVERSITATES PRÆDICTÆ PER EPISCOPOS ET ARCHIDIACONOS PRÆDICTOS IMPOSTERVM NON VISITENTVR. Et hoc Noſtrum judicium, ordinationem & declarationem ſub magno ſigillo *Angliæ* communiri, & confirmari juſſimus. *Mandantes* præfatis Cancellariis Magiſtris & Scholaribus Vniverſitatum prædictarum ut VISITATIONI PRÆFATI ARCHIEPISCOPI ET SVCCESSORVM SVORVM SE SVBMITTANT, ET VT NVLLAM EXEMPTIONEM SEV IMMVNITATEM ADVERSVS VISITATIONEM PRÆDICTAM SIBI VENDICARE PRÆSVMANT. In cujus rei, &c. *T. R.* apud *Weſtm.* triceſſimo die Januarii, *Anno Regni* Caroli *Regis Angl. &c. duodecimo.*

Per breve de privato Sigillo.

By

By all these recited Histories and Records it is unquestionably apparent, both in point of fact and right too, That the Archbishops of *Canterbury* have from time to time visited the Universities both of *Oxford* and *Cambridge*, the severall Colledges and Hals in them, by their meer Metropolitical right. That this right of theirs, and jurisdiction over the Universities, was never opposed, nor this Plea or Priviledge of the King's sole right, ever pretended or insisted on till 20. *R.* 2. and that only by a factious party in the University of *Oxford*. That this King himself, on whom that Prerogative was first fixed, did by an expresse Charter and Decree absolutely disclaim, and adjudge it for the Archbishops, against the University of *Oxford*, upon a solemn reference of the whole businesse to him. That when the Vniversity of *Oxford* renewed it again, King *Henry* the fourth, to whose determination the Vniversity and Archbishop submitted the descision thereof, adjudged it for the Archbishops against the Vniversity, and disclaimed this pretended Prerogative of his sole visiting she Vniversities: which determination of his was ratified by the Lords and Commons in Parliament, as a binding Decree against the Vniversity, and their Successors: That the Archbishops of *Canterbury* enjoyed the Privilege of visiting the Vniversities without dispute, till 12. *Caroli*, who upon full hearing of both Vniversities and the Archbishop, before himself and his Councell, by his Letters Patents under the great Seal, confirmed the descisions of *Richard* the second, and *Henry* the fourth, and the Archbishops Metropolitical right of visiting the Vniversities, notwithstanding all Pleas, Buls and Charters alledged for their exemption; and likewise disavowed his own pretended right of sole visiting the Vniversities as Vniversities; That the Popes Buls now insisted on for exempting the Vniversities from Episcopal and Archiepiscopal jurisdiction and visitation, have been renounced by the Vniversities themselves, and declared null and void by these three Kings, and the Parliament of 13. *H.* 4. and no bar at all to the Archbishops right then, much lesse to the Parliaments now: That no Kings of *England* ever visited the Vniversities till King *Henry* the eighth, and that

neither his visitation of the Vniversity by his Commissioners (if reall) nor K. *Edward* the sixt by his, nor the Statutes of 26. H. 8. c. 1. 25 H. 8. c. 19, 31. nor 1 & 2 *Phil.* & *Mary* c. 8. nor 1 *Eliz.* c. 1. did deprive the Archbishops of *Canterbury* of this jurisdiction, nor yet the Bishop of the Diocesse, whose jurisdiction continued till the twelft yeer of King *Charles*, as this clause in his Letters Patens, *Declaramus quod Universitates predictæ per Episcopos & Archidiaconos* IN POSTERUM NON VISITENTUR, *intimates*: which fully makes good my second, and fift position too, in every particuler branch.

I shall be briefe in proof of my third. That Cardinal *Poole* Archbishop of *Canterbury*, in the third and fourth yeer of Queen *Maries* Reigne, as Popes Legat, visited both Universities, is thus related by *Matthew Parker* his immediate successor, Antiqu. Eccles. Brit. p. 422. *Reginaldus Polus in* LEGATIONE ADMINISTRANDA, *quia tum in vivis vix aliqui Evangelici quos flammis extingueret noti essent, in mortuos sævire decrevit. Ac primum* Cantuariensem *Diœcesim* VISITAVIT; *deinde* CANTEBRIGIENSEM ET OXONIENSEM ACADEMIAS, Johanni Christopherſono *Cicestrensi*, & Cuthberto Scoto *Cestrensi Episcopis, necton* Colo, & *maximè* Ormaneto (*quem omnibus rebus præfecit*) LUSTRANDAS, & *ad Pontificiam omnium atque normam reducendas commisit. Hi cum in collegiis omnia perturbassent, novisque duris legibus multorum juvenum præclaras indoles a studiis prorsus alienassent, ne quid crudelitatis omitterent, mortuorum sepulchra violarunt, &c.* The whole form and proceedings of their visitation of the Vniversity and Colledges of *Cambridge*, is at large recorded by Master *Fox* in his *Acts and Monuments*, Edit. 1640. Vol. 3. p. 762, to 780. where those who please may read them at their leisure; both the Universities submitting to his Visitors visitation of them, not onely as Archbishop, but Popes Legat too: *cui Papa commisit visitationem & reformationem Studiorum generalium*; as he expresseth in his Processe: This Cardinal altered the old, and made new Statutes for the Vniversities, rejecting those made by King *Edward* the sixt his authority, which Statutes of his are yet remaining among the Records of both Universities.

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John Gibbons, Doctor of Law, and one of the Maſters of the Chancery, and *John Griffeth* Doctor of Law, or any ſeven, ſix, five, four, three or two of them; but what they did or determined therein is uncertain.

If then the Popes Legats and the Chancellours of both Univerſities, have exerciſed, and time out of minde enjoyed ſuch juriſdiction over the Univerſities of *Oxford* and *Cambridge*; their pretence, of being ſubject onely to the King's viſitation and juriſdiction, muſt neceſſarily be diſclaimed, being directly contrary to their own expreſſe claims, in relation to their Chancellours.

My fourth poſition, *That the particular Colledges, Hals and Members of the Univerſity have their particular Viſitors appointed by their founders and private Statutes, to whoſe viſitation and juriſdiction they are ſubject, not to the King's alone*; is ſuch a known truth, that I need not prove it, having given ſome touches upon it* already in *Lincoln-colledge* and *Braſennoſe*. The rather, becauſe the author of the Priviledges of the Univerſity of *Oxford*, p. 6. makes this Argument againſt the Viſitors preſent juriſdiction, *We have yet a more ſtrict and particular Obligation, being ſworn by our reſpective Statutes, to allow and ſubmit to no viſitation but from thoſe who are nominated by our Founders.* And the common and Statute Law of *England* allows the Founders of any Colledge, Abbey, Hoſpital, Free-ſchool or Free-Chappel, without cure of ſouls, to viſit or nominate thoſe who ſhall viſit the ſame, as is evident by 8 *Aſſ.* 29. 8. *E.* 3 69. 13 *Aſſ.* 2. 11 *H.* 4. 12. 8 *H.* 27 *E.* 3 84. 6 *H.* 7 14. *Fitz. Nat. Bre.* 42. *a. b.* 50. *Br. Brook Præmunire* 1. 5 *H.* 5 c. 1. 25 *H.* 8 c. 21. 43 *Eliz.* c. 4. Now of all the Colledges or Hals in the Univerſity of *Oxford*, as Doctor *Fell* (the pretended Vice Chancellour alledged before the Committee of Lords and Commons for regulating the Univerſity) there is none but Chriſt-Church onely, of which the King is immediate Viſitor, (and that originally founded by Cardinal *Woolſey*, not the Kings Progenitors) and no more but it and * *Orial colledge*, and St *Mary-Hall* (founded by K. *Edward* the 2^d) and *Jeſus-colledge* (founded by Qu. *Elizabeth*) whereof the King and his Progenitors have been

* Pag. 7.

* *Speed's* Hiſtory, p. 1066, 1085, &c.

been Founders; which three later have their particular Visitors appointed by their Founders Statutes: and no Colledge in the Universty of *Cambridge* but *Kings-colledge*, *Trinity-colledge* any *Christs-colledge*, whereof the King's Ancestors are immediate Founders; how then the King can truly and really be stiled, the sole Founder or Visitor of both or either our Universities (there being but three Colledges in *Oxford*, and three in *Cambridge* of his foundation, and but one of his visitation) I desire the Universty at leisure to resolve, since this their Plea, *We have yet a more strict & particular obligation, being sworn by our respective Statutes, to allow and submit TO NO VISITATION but from those who are appointed by our Founders*, quite subverts their grand pretended Priviledge, and strongest Plea in Bar (which the Author of *The Priviledges of the Universty of Oxford* undertakes to make good) *That the right of visiting the Universty of Oxford, is onely in the King's Majesty, and that it is exempt from all other jurisdiction, by its Foundation, Prescription and grants of Exemption*; when as I have proved it to be anciently and legally subject both to the jurisdiction and visitation of the Bishops of *Lincoln*, of the Archbishops of *Canterbury*, the Popes Legats, the Chancellour; and the Colledges and Hals as Members of it, to sundry particular Visitors, appointed by their respective Statutes and Founders; the two last whereof themselves acknowledge and urge too. Which fully refutes the King's pretended royall Monopoly of sole visiting the Universty, which himself and his Progenitors have severall times disclaimed and resolved against in expresse terms, as I have manifested.

My fift position is * already substantially proved in every syllable, in the evidence for probat of the second; which I shall not repeat, but only conclude, the Author of the *Universties Priviledges* was very ill advised to plead Popes exploded, illegal, antichristiã Buls in Bar against the jurisdiction of both houses, and the Visitors deputed by them, in these Anti-papal times of Reformation, which might justly induce them to suspect, that the Heads and Members of the Universty have a higher and more reverent esteem of the Popes usurped,

* P. 9, 10, 11, 21, 36, 38.

abandoned authority, and illegall Buls, then of both Houses rightfull Power and Ordinances, which they would have these voyd Papall Buls (no better then the white Bull in *Ossy* Tower) controll, though the very Letter of them extends onely to exempt themselves from Archiepiscopal and Episcopal, not Parliamentary jurisdiction and visitation, no more then Regall.

These five positions being all confirmed, and the Universities pretended grand Priviledge and false Plea thereby sufficiently refuted, I shall next examine and refell the false grounds and impertinent Evidences produced by their advocate to make them good, and so leave them without excuse.

Object. The Universities Priviledge, p 2,3.

The first ground in maintainance of this exemption is, *That the University of* Oxford *wholly refers to the King, as its Originall & Founder; That almest 800. yeers since, King* Alured *not onely founded publick Schools of Arts & Lectures, but their Priviledges & Immunities, having got'en them confirmed by the then Pope; That the University ever submitted and sheltred themselves under the title of the* Kings Foundation *& yet do.* For which some Instruments of the University to K. *Richard* the 2d, and others, wherein they recite they are *Vestræ fundationis & Patronatus*, are cited in the Margin: Now all Societies whereof the King or his Predecessors were Founders, are ONELY VISITABLE BY THE KING, by the common Law of this Realm 6 *H.* 7 f. 14. 2 *H.* 5 (I suppose he intends the Statute of 2 *H.* 5 c. 1. since there is nothing in the yeer book to that purpose.)

Answ. To this I answer, first, That the originall Founder of the University of *Oxford* is not certainly known: Secondly, That King *Alured* was not the first Founder of this Vniversity, or of Schools and Lectures in it, (which had been time out of mind before, as Master *Camden* in his *Britania*, p. 378. proves out of *Asser*) but onely the Restorer and Repairer of them, recalling the long banished Muses unto their own sacred cels, it being a Vniversity above three hundred yeers before as left; its Orders and Ordinances for Lectures, &c. being made and established by *Gildas*, *Melkin*, *Ninnius*, *Kentigerne*, and other godly and learned men, which Saint *German* wondrous well allowed of; which the old Schoolmen of the Vniversity provedby the undoubted testimony of old Chronicles before

fore King *Alured*, in their contest with *Grimbald* their Divinity Professor there: And it is one thing to be a Founder, another a Repairer or enlarger; else every Founder of a new Colledge or School in the Vniversity, or Repairer of an old one, should be the Founder of the University and Colledge it self. Thirdly, That this King conferred any Priviledges or Immunities on this Vniversity, & got them confirmed by the Pope; I find no satisfactory evidence: but admit he did, this makes him no more a Founder of the Vniversity, then *Edward* the 3d, *Richard* the 2d, King *Henry* the 8th, Queen *Elizabeth*, King *James*, or King *Charles*, who confirmed and allowed the Vniversities ancient priviledges. Fourthly, there are only three Colledges and one Hall in *Oxford* now remaining of the King's and his Predecessors foundation, and one of them *Christ-church*, was really founded by Cardinal *Wolsey* as a Colledge, and by the * King onely as a Deanary and Cathedral; all other Colledges and Hals, with the publike Schools and Library had other Founders; therfore the King and his Progenitors cannot be properly stiled, the sole Founder of the whole Vniversity, and so the onely Visitors by the common Law. Fifthly, the Parliament it self (to speak properly) is the true reall Founder and establisher of both Vniversities, they being incorporated and made capable to sue, purchase and enjoy all their Priviledges and Lands without controverse, onely by an act of Parliament in the 13. yeer of Queen *Elizabeth*, rot. 36. the title whereof is onely mentioned in the printed Acts; therefore the Parliament being the true Founders of it, have best right to visit it by the common Law, by us their Commissioners, as this Objection proves. Sixtly, this plea, That the Vniversity is of the King's foundation only, (as the Objector grants) is but the Vniversities own device, who anciently did, and yet do shelter themselves under the title of it, against their lawfull Visitors, and are very ill advised to fly to this false shelter now, since three Kings and one Parliament have severall times driven them from it, as the premises evidence. Seventhly, admit the antecedent true, that the King and his Predecessors were sole Founders of the Vniversity, yet the sequell is unsound: Ergo they

* *Godwins* Catalogue of Bishops, p. 404.

they only are the Visitors of it, and none others, seeing I have proved, that others have of right visited and had jurisdiction in and over it as a Vniversity from time to time, besides our Kings, and that of right, by our Kings and Parliaments resolutions, notwithstanding this pretext of being sole Founders. Eightly, the King and his progenitors by their Charters are as much Founders of every Corporation, every Company of Merchants and other Tradesmen in *London* and other Cities, as of the Vniversities; will it therefore follow, *Ergo*, none must visit or regulate them but the King, and the houses of Parliament, the Committees for Trades, Complaints, Grievances, Clothiers, Weavers, &c. may not regulate nor reform them, much lesse the Lord Major and Court of Aldermen, as they have usually done. Ninthly, the Book of *6 H.* 7 14. is no resolution, but a private opinion; It only speaks of the Kings free Chappels without cure, which he or his Chancellours shall visit, not the Bishop, but by Commission; not of Vniversities or Colledges, the thing in question; nor yet of Monasteries, Churches and Chappels with cure of souls, which the Archbishop and Bishop of the Dioceese shall visit, though built, founded and endowed by the King himself, as this very Law-book [*6 H.* 7 14.] grants; whence most ancient Abbies founded by our Kings, were exempted from archiepiscopal and Episcopal visitation and jurisdiction by special Charters confirmed in* Parliament, and Popes Buls, the King's meer foundation and Charters alone being no legall exemption from their power by the common or Canon Law. As for the Statute of *2 H.* 5 c. 1. it speaks only of Hospitals of the King's foundation, that the Ordinaries shall visit them by his Commission, not of Colledges or Vniversities; without the words and intention of the act. Tenthly, this and other Law-books onely say, that the Bishop shall not visit Hospitals and Free-Chappels of the King's foundation; but no Book avers, the Houses of Parliament may not visit them nor their Delegates: and to argue, the Bishop of the Dioceese may not visit the King's Free-Chappels or Hospitals; *Ergo*, the Parliament may not do it; is no better Logick then; The Ordinary cannot visit nor reform the greatest Officers

* *Spelman* Concil. Tom. 1. p. 631. to 635. *Joan. Seldeni* Notæ ad Eadmerum p. 165.

Officers of State, the Cours of Justice at Westminster, the Kings own Court; nor any civil abuses, and publike grievances: *Ergo*, the Houses of Parliament cannot do it. Yea, all our Books agree, that the Bishop by Commission, under the great Seal, may lawfully visit the Kings Freechappels & Foundations, and the stat. of 2. *H.* 5. *c.* 1. enacts as much: But we have such a Commission to visit the University, therefore we may lawfully do it. These answers, I suppose, have sufficiently shaken the *sandy foundation* of the Universities Exemption, the *Kings Foundation* of it, whereon they most rely.

Yea, but the Objector learnedly replys, *p.* 3. *Here you may please to consider, that the Foundation of the Vniversity being the Kings* personal act, *his interest lies not within the reach of that Beaten evasion, of a* publike and politique *Capacity*. I answer, I understand not wel what he means by *the Kings personal act*: Unless the act of the King in his natural Capacity, as a Man, not in his *Politick*, as a King. If so, then it follows: 1. That the King and his Progenitors, as *Kings in their publike and politick Capacities*, were not founders of the University, but only in their *natural*, as private men; which subverts his own assertion and foundation. 2. That this privileg of a Founder is not annexed to the Kings publike and politick, but natural and personal Capacity, and so not descendible nor hereditary; since personal actions, acts and priviledges, by the rules of the Law, * *die his moritur cum persona.* with the person. If he mean by the *Kings personal act*; that the King in person, laid the very first Foundation stone of the University with his own hands; or writ and sealed the Patent or Charter that first founded it, himself, and not by any Substitutes or Officers: This wil be hard for him to prove, and the sequel wil be; *That the King only in his own Royal person, must visit the Vniversity now*; but not by any Commissioners or Delegates; and so all his other Foundations, contrary to all former presidents, Statutes and Law-books, that he may visit them by Commissioners, which the Universities Answer acknowledgeth, and himself too.

Actio personalis

The next *Ground of Exemption urged, is pre-scription *Obiect.* 2.

and Bulls of Popes; both which being abundantly refuted in the premised positions, and no plea at all against both Houses of Parliament, or any power derived from them, (not mentioned, nor included in, nor yet confinable by these Bulls) though they might hold good against any ordinary or inferior Jurisdiction, if true, I shal here therefore pretermit without further Answer.

Object. 3. The 3d, ground of Exemption alleaged, it *grants of Exemption by Popes, *allowed and confirmed by Charters from several Kings, both by themselves and in Parliaments*; to prove which, there are quoted in the Margin some *Popes Buls*, out of *Harr*, *the old book of Oxford Statutes*, and the *Senior Proctors Book*, with this addition, 25. *H.* 8. *c.* 21. *All power of Visitation is given only to such, as shal have immediate Authority by the Kings Commission, under the great Seal of England, in places formerly exempted*; as COLLEDGES &c. *All Letters, Patents heretofore made by the Kings Progenitors, in behalf of the Vniversities, are confirm'd by act of Parliament.* 13. Eliz. & 19. Eliz. part. 12. *in* Dorso; *The Priviledges of the Vniversity are confirm'd in the very words of* Boniface. 8. *acknowledged they had them by prescription*; *the immediate subjection of the Vniversity to the Authority and Jurisdiction of the Prince, and all their other Exemptions ratified*; *and those acknowledged to be sworn to, in the Oath taken by every Graduate.* These are all the evidences of moment produced to make good this ground.

Page 2.3. 4.

Answer. I answer. 1. That all these Popes Buls of Exemption now insisted on, were so farr from being allowed and confirmed by Charters from several Kings, both by themselves and in *Parliaments*; that King *Richard* the 2. and King *Henry* the 4. by both their Charters, and in Parliament, upon solemn debate, disallowed, nulled and declared them meerly void, and the University it self, absolutely renounced them as nullities and prejudicial, in both their Raigns: King *Charles* himself by his Charter, ratifying and approving their resolutions herein, as I have proved. Therefore this allegation is a most palpable falshood, there being no one Charter nor Act of Parliament,

liament that ever allowed or confirmed them before or since these Kings Declarations of th ir nullity. And admit these Bulls so confirmed, yet they extend only to exempt the Universitie from Archiepiscopal, or Ordinaries Visitations and Jurisdictions, not from the Kings or Parliaments, not mentioned nor intended in them.

I shal close up this with *Matthew Parkers* Authority, the first *Arch Bishop* of *Canterbury*, in *Queen Elizabeths* Raign. *De Antiqu. Eccles. Brit. p.* 35, (before the Arch Bishops lives) where thus he writes of the Jurisdiction of the *Arch Bishop* of *Canterbury*, even in this Queens Raign, & of these Popes Buls nullity. *Episcopatus et Diocæses suæ Provinciæ quandocunque, et quocunque ordine sibi videbitur expedire, visitat &c. Tamque latè patent hujus Archiepiscopatus privilegia, ut in loca firmissimis sepia ac munita privilegijs se insinuent. Multa enim loca quæ a Metropolitica et Ordinaria Jurisdictione se eximi procurassent, ab hujus tamen Authoritate immunia ac tuta esse non poterant. Inter quæ ILLÆ CELEBRES CANTABRIGIENSIS ET OXONIENSIS in Anglia ACADEMIÆ, quanquam peculiaria jura, et exemptionis privilegia sibi quondam á Papa concedi procurassent, illis tamen authoritate postea á Regia irritis ac rescissis, IN CANTVARIENSIS ARCHIEPISCOPI AVTHORITATEM SESE REDDIDERVNT, et tam VISITATIONES SVAS SVBIRE COGVNTVR, quàm ad Synodalia sua concilia per Cancellarios accedunt: In Cantabrigia Collegio S. Petri, cujus Eleensis Episcopus est patronus, sede vacante, tàm Præfectum quàm socios admittit, et uni scholarium cui gratificare voluerit, vacantem societatem confert. OXONII, Collegiorum omnium animarum, et Mertoniensis est Patronus, ac in utrisque Ordinariam et* OMNIMODAM JVRISDICTIONEM EXERCET. So that he reputed this Jurisdiction of visiting the Vniversities, a Right belonging to the Arch-Bishops of *Canterbury*, notwithstanding any pretended exemptions, Charters or Statutes to the contrary, then in being; or the Bulls of *Pope Boniface* the 8, which *Joannes Cujus*: De Antiq; *Cantabrig.*

brig. Academia, p. 71. confesseth to be abolished, by the Letters Patents of K. *Richard* the 2. made to Arch-Bishop *Arundel*, in the 20. *year of his Raign, and after confirmed by King* Henry *the fourth, and an act of Parliament, in the* 13 *year of his Raign*; as the Premises at large demonstrate.

2. I answer, that the objected clause of the Act of Parliament 25. *H.* 8. *c.* 21. extends not at all to the Vniversity of *Oxford*, or any Colledges in it, as is most evident by the expres words of the proviso, which I shal here transcribe.

Provided always, that the said Arch-Bishop of Canterbury, or any other person or persons, shal have no power or authority, by reason of this act, to visit or vex any Monasteries, Abbies, Priories, Colledges, Hospitalls, houses, or other places Religious, which be or were exempt, before the making of this act, any thing in this act to the contrary thereof notwithstanding. But that Redress, Visitation and Confirmation shall be had by the Kings highness, his heires and successors, by Commission under the Great Seal, to be directed to such persons as shal be requisite for the same, in such Monasteries Colledges, Hospitals, Priories, houses and places Religious, exempt. So that no Visitation nor Confirmation shal from henceforth be had or made in, or at any such Monasteries, Colledges, Hospitals, *Priories, houses and places Religious Exempt, by the said Bishop of* Rome; *nor by any of his authority, nor by any out of the Kings Dominions; nor that any person Religious, or other resiant in any the Kings Dominions, shal from henceforth depart out of the Kings Dominions, to or for any Visitation, Congregation, or assembly for Religion. But that all such Visitations, Congregations, and Assemblies shal be within the Kings Dominions.*

By this it is apparant. First, that this act extends only to such **Colledges*, as were *Religious Houses, consisting of Menks and Friors*, not to *Colledges of Schollars* in the Universitty, as the coupling it with *Monasteries, Abbies, Priories*, and *other Places RELIGIOUS*, and the last clause: *Nor that ANY PERSON RELIGIOUS, depart out of the Kings Dominions, to or for any Visitation or Assembly FOR RELIGION,*

* See *Speeds* Catalogue of Religious houses, Colledges and Hospitals.

ON, manifests: 2. That it excludes only the *Arch-Bishop* of *Canterbury*, his *Commissaries*, and under-*Officers*, *formerly mentioned* in the body of the Act (*the any other person or persons*, intended in this clause) from visiting these exempted *Colledges* and Religious Houses: and that not simply, but *BY REASON OF THIS ACT*: Not the Houses of Parliament, or any Visitors of their appointment, 3. It extends only to *Colledges*, not to *Universities*, not once named or intended in this Law: And a *Colledg* (especially of Monks and Religious persons as here) is one thing, a *University* another, by the Objectors own confession. p. 6. 4. It reacheth only to such Colledges and Places Religious, as were exempt from Archiepiscopal and Episcopal Visitation, *AT, & BEFORE THE MAKING OF THIS ACT*; Therefore, not to the Universities and Colledges of *Oxford* and *Cambridg*, which at and before its making were not exempt, but subject both to the Arch-Bishops and Bishops Visitation and Jurisdiction, as I have largely proved, 5. Such exempt Colledges as are within this Act, are to be visited, not by the King in person, or such persons as he shall *personally nominate*, as the Objector dreams (no such words being in this Act) but, BY COMMISSION UNDER THE GREAT SEAL, TO SUCH PERSONS AS SHAL BE APPOINTED, *and requisite for the same*; & that either by both houses of Parliament, or by the Keepers of the Great Seal, who usually nominate and appoint all Commissioners of the Peace, Sewers, Oyer and Terminer, for Visitations, Inquiries, and the like, not the King in person. And the present Visitors of *Oxford*, being thus appointed by Ordinance of both Houses, and by commission under the Great Seal, are sufficiently authorized to visit the University and Colledges in it, admit them places exempt within this proviso, as they are not. 6. Admit all that can be; it is clear, that both Houses of Parliament by this Law conferred the Power *of visiting Monasteries, Abbies, Priories, Colledges, Hospitals, houses, and other places Religious, exempt before this act, from Archiepiscopal and Ordinary Visitation, on the King, his heires and successors*; who could not confer it on

themselves. *Ergo*, by the self-same reason, both Houses may now by Ordinance and Commission, lawfully conferre the like power of visiting the University, though formerly exempted, on the Visitors now appointed by them; they being the *supream Visitors and Reformers of all corruptions and abuses, both in Church and State*, and appointing who *shal be Visitors*, and what *person or persons shal be visited, and what things inquired of in Visitations*, in sundry other Acts of Parliament, as 31. *E.* 1. *Rastal.* 304. 2 *H.* 5. *c.* 1. 25. *H.* 8. *c.* 21. 26. *H.* 8. *c.* 21. 26. *H.* 8. *c.* 1. 28, *H.* 8. *c.* 10. 31. *H.* 8. *c.* 13. 14. 2. *E.* 6. *c.* 1. 5. *E.* 6. *c.* 3. 1. & 2. *Phil.* & *Mary*, *c.* 1. 8. 1. *Eliz. c.* 1. 2. 14. *Eliz. c.* 5.

3. I answer, it is true, *That the ancient Priviledges, Liberties and Franchises of the respective Universities of* Oxford and Cambridge, *heretofore granted, ratified and confirmed by the* Queens Highnes, *and her most noble Progenitors, for the better increase of Learning, and further suppressing of Vice*, are confirmed by Act of Parliament, *An.* 13. *Eliz. rot.* 36. which *incorporates both Universities*; but it neither confirmed the Popes Bulls of exemption, nor gave them any Immunity from Archiepiscopal or Episcopal Jurisdiction and Visitation, it being no ancient Liberty, Privilege, or Franchise, ratified or confirmed to them by the Queen, or any of her noble Progenitors, nor yet once mentioned or intended in the Large Patent of *Priviledges*, of King *Henry* the 8. bearing date the 10. of April. in the 14. year of his Raign, made and granted to the *Chancellor*, and *Schollars of Oxford*, nor in Queen *Elizabeths* Patent to the Chancellor, Masters and Schollars of the University of *Cambridge*, bearing date the 26. of April, in the 5. year of her Raign, particularly confirmed by this Act. Therefore this Act makes nothing at all to purpose.

4. The Objected Commission in 19, *Eliz.* part. 12. *in dorso*, pretends no exemption of the University and Colledges from Archiepiscopall and Episcopall Visitation and Jurisdiction simply; the thing not then in question; neither *doth it acknowledg or confirm the Universities Priviledges*, and

and all other Exemptions, in the very words of Boniface the 8. *and acknowledge they had them by prescription &c.* as is untruly surmised. But first, it mentions divers priviledges then claimed by the Chancellor, Doctors and Schollars of the Vniversity, and some exemptions in causes wholly belonging to the Chancellors conusance; and next it only complains of *William Wilsons* infringing these Priviledges and Exemptions contrary to his Oath, in complaining to the Deane of the Arches of *Canterbury*, and to Arch-Bishop *Grindal*, against the Bishop of *Lincoln*, and his Visitors of *Lincoln Colledg* in *Oxford*, for refusing to admit him to the Rectorship thereof, to which he falsly pretended he was really and lawfully elected and presented; and for sending Inhibitions and Citations thence to the Bishop and his Visitors (who were Members of the Vniversity) to appear in the Arches, and with taking the final Examination and Determination of this election unto themselves, which of right belonged to the Chancellor and Vniversity. Upon which bare suggestion and complaint, the Queen granted a Commission to two *Bishops* and *six* others, in a *summary way, without any noise or formal proceedings, according to the truth and meer equity of the cause, by the best and most effectual means they could; De et super* VERITATE PRÆMISSORVM *et* PRIVILEGIORVM *et* EXEMPTIONVM DICTÆ VNIVERSITATIS, *ac in causa et causis prædictis &c. procedere, et fine debito, omni appellatione et querela mullimoda, et supplicatione quacunque remotis, terminare, statutis, Canonibus, et consuetudinibus in contrarium editis, litisve pendentibus, in aliquo non obstante.* So as this Commission doth no ways confirm the priviledges, nor ratifie the exemptions therein claimed by the Chancellor and Vniversity, by Charter, statutes and prescription; for then it would have remitted this cause of Election from the Deane of the Arches, and Arch Bishops Delegates to the Chancellor and Vniversity (to whom by ancient Priviledg they alleged it did belong) but only refers the *Examination of the truth of the Premises, Priviledges, Exemptions, and Determination of this cause and controversy*

about

about this Election to certain Commissioners, thus summarily to determine, any Statutes, Canons, Customes, or suits depending to the contrary, notwithstanding; and so rather doubts of, and questions the truth of these alleaged Vniversity Priviledges and Exemptions, then confirms them, though procured by the Chancellors and Universities means, and drawn up by their own direction.

* See the Charter of 36 *E.* 3, pars. 1, mem. 5 Rot. Claus. 9. R. 2 & 15 R 2 mem 17. in Tur. London. to this effect. & p 41

But admit this Commission ratified and confirmed the Priviledges and Exemptions claimed in it by the Vniversity; yet the substance of them is no more then this: *That* all personal contracts, suits, controversies, and offences of Schollars and Priviledged persons arising within the precincts of the Vniversity (except maihmes and fellonies) are to be tried and determined in the Vniversity before the Chancellor only, not before any Arch-Bishops, Legates,* Bishops, or Ordinary Judges, out of the Vniversity. Will it therefore follow; Therefore the Vniversity cannot without multiplied perjury, acknowledg any Visitor but the King, and such as are immediatly sent by him; and is totally exempted, not only from all Archiepiscopal and Episcopal, but likewise from the Parliaments, and their Delegates Visitation? No doubtless; the rather, because *King Charles* himself, and his Counsel resolved, that neither this Commission, nor * any other Charter of Priviledges or Exemptions, did free the Universities from the Arch-Bishop of *Canterburies* Metropolitical Visitation, much less then from both Houses Delegates, authorized by Ordinances and Commission for to visit it.

*Here p 36

Object. 4. * *Page.* 4.

The 4th. ground and argument urged for the Universities Exemption from our Visitation, is this. * *That all visitations of the Vniversities (except in* Queen Maries *Reign, by* Cardinal Pool, *as Popes Legat) were held by the respective Princes authority, and the persons visiting were immediatly sent by them, only as their Representatives, and who ever sate, the King visited. For which one Visitation, by* K. Henry *the* 8. *another by* King Edward *the* 6. *a third by* Queen Elizabeths *Visitors & Commissions are cited:* therefore the Universities are exempt from all other Visitors, and those now appointed by both Houses, but not immediatly by the King. To

To this I answer: First, That no King of *England* before *Henry* the 8. did either in Person or by Commission visit the Universities; and his once meer Visitation of them by Commissioners (if true, since I find no such Commission extant after much inquiry) was no exemption of them, in point of Law, from their former Visitors, no more then of the particular Colledges (which they likewise visited) from the Visitors designed them by their Founders. Secondly, King *Edward* the 6. his *Commission, and Commissioners, for their Visitation, were made by the advice of the Lord Protector, and others of his privy Counsel,* (he being then an infant but of 11 years of age) & not made nor nominated personally and immediately by himself, as the Commissions themselves attest: And for any Commission under the great Seal of Queen *Eliz.* for the Universities Visitation, it is to me a meer *non liquet*, which I cannot find upon search after it. Thirdly, King *Charls* himself and his Counsel resolved upon full debate, that those Royal Visitations of his Predecessors did not exempt them from the Archbishops Visitation by his metropolitical right. Therefore they can much less priviledg them against the present Visitors, commissioned under the great Seal and armed with both Houses right, from whom our Kings derived their power of Visitation at first. *Answer.* c

The 5. and principal Plea in point of conscience, most inculcated, is this: "*That the Heads and Members of the University are sworn by their respective Statutes, to allow or submit to no Visitation, but such as those were ordained by their Founders.*" Therefore they cannot, without multiplied perjury, submit to the present Visitors. *Object.* 5. * Page 6.

Answ: First, That this Oath obligeth them not as Members of the University, but only as fellows of particular Colledges or Halls. Therefore it cannot be pleaded against our visiting the University in general, but such particular Colledges only who are obliged by such an Oath. Secondly, This Oath was never made nor prescribed with any intention to except those particular Colledges that take it from the Kings or his Commis- *Answ.* d

missioners Visitations, as the Objectors (I presume) will grant, nor yet from the Archbishops, (which I have formerly proved) though not appointed Visitors by the Founders, to both which these Colledges have submitted, without any perjury or violation of their Oath; the end whereof was only to exclude all wrongful intrusions of co-ordinate or inferior visitors and persons, upon the Founders right, by way of usurpation, not any superior lawful Jurisdiction or Authority, which the Founders had neither power nor right to abridg. This is evident in the common case of *Hospitals*, which though bound by Oath and Statutes to admit no other Visitors but such as their Founders appoint; yet the Ordinaries both by Statute, Common and Canon Law, may and ought to visit them notwithstanding, as is evident by 2 *H.* 5. *c.* 1. by vertue of their superintendent power. Thirdly, This Oath is like the Oath of Homage at the common Law, having an implied saving in it, as that hath an express: *I become your man from this day forwards of life and limb and of earthly worship, and unto you shal be true and faithful, and bear you faith for the Tenement that I claim to hold of you, saving the faith that I owe unto our Soveraign Lord the King.* Or, *salva fide Deo, & terra Principi.* The reason of which Saving is, because the King is the Soveraign Land-lord & Paramount the Mean-lord. Which Oath of Homage. * *Walter* Bishop of *Exon* giving to his Tenants in *Cornwal, nulla facta* mentione de *Homagio & Fidelitate Domino Regi debitis*: thereupon one *Michael de Horth* exhibited an Information against him, in 6 *E.* 1. as a contempt and disinversion to the Kings Crown, *et ad damnum & dedecus ipsius Domini Regis*, Hereupon the same ground it is, that if a man hold Lands by Homage of divers Lords, he still lay in the end of his Homage done, *Savings* he faith which I owe to our *Lord the King*, *and to my other Lords*. If a man should make a solemn Vow (having been overtaken with wine) never to drink wine more, or one addicted to swearing, vow never to swear any more: yet these Vows would not extend to exclude him

Littleton l. 2. chap. 1.

Cooks 1 Instit, f. 65

from drinking wine at the Lords Supper: or taking an oath upon ſummons or juſt occaſion in any Court of Juſtice, or before a lawful Magiſtrate. So if a ſervant ſwear, not to bewray his maſters ſecrets; or a fellow of a Colledg, not to diſcover the ſecrets of the Houſe, or a Grand-Juror, not to diſcover his fellows ſecrets; yet theſe Oaths binde them not when they are called to diſcover them in a legal way, upon a juſt cauſe before a lawful Magiſtrate, upon any Action of Account, Bills of diſcovery or trial; it being not within the intention of theſe Oaths, nor in the power of thoſe who preſcribed them to reſtrain ſuch legal diſcoveries, or abridg the ſuperior Magiſtrates power to the obſtructing of publick juſtices upon which ground, the Lords and others of the priy Councel heretofore, and this very Parliament in the caſe of the Earl of *Strafford*, when ſummoned as witneſſes, have without perjury, or breach of truſt diſcovered their Fellow-Councellors evil counſel & ſecret advice to his Majeſty, contrary to the Letter of their Oaths. Fourthly, It is the Apoſtles expreſs command, *Col.* 3. 20. 22. *Children obey your Parents in all things, for this is well pleaſing unto the Lord. Servants obey your Maſters in all things according to the fleſh.* Yet all *Divines*, * *Canoniſts*, and *Caſuiſts* reſolve: *That if Parents and Maſters command one thing, and King, Magiſtrate or God himſelf command another thing: Children and Servants in ſuch a caſe ought rather to obey the Magiſtrate, King and God himſelf, then either their Parents or Maſters; notwithſtanding theſe univerſal precepts of obeying them in all things*; which have this implyed exception involved in them, to wit, in all lawful things not contrary to the ſuperior juſt commands of the King, Magiſtrate or God himſelf, which being the ſuperior powers, ought principally to be obeyed before natural Parents and Maſters. Hence is that known reſolution of *Auguſtine* inſcribed by * *Gratian*, and all Canoniſts. *Quæ juſſit parentes, Deo ordinante reſiſtis. Sed quæ juſſit Dominus illud non debes facere? hic ſane tentatus poteſtatem. Ipſo Dominante Regum gradu adverte*

* See *Gratian* Cauſ. 11. qu. 3

* Cauſ. 11. q. 3

verte: Si aliquid jusserit curator, faciendum est; non tamen si contra Proconsul jubeat. Non utique contemnis potestatem sed eligis majori servire; nec hic debet minor irasci, si maior prælatus est. Rursus, si ipse Consul aliquid jubeat, & aliud jubeat Imperator; vel si aliud jubeat Imperator, et aliud Deus, quid iudicatis? Maior potestas Deus: da veniam ô Imperator; Tu carcerem, ille gehennam minatur. Hic jam tibi assumenda est fides tua, tanquam scutum, in quo possis omnia ignea iacula inimici extinguere. This resolve of his, will dissolve the present Objection; that these Oaths and Statutes of particular Colledges, will exclude all other Visitors appointed by an equal or inferior, but not by a superior Authority, as the present Visitors are. Fifthly, I find an express president in point. When * *Cardinal Pool* by his Delegates visited the *University of Cambridg* in Queen *Maries* days, *Robert Brassy*, Master of *Kings Colledg*, (a worthy *old man both for his wisdom and hoar hairs*) *hearing his own name recited next after the Vice-Chancellors, said: He was there present as all the other were; nevertheless for as much as the Reformation of his House was WHOLLY RESERVED to the discretion of the Bishop of Lincoln, not only by the Kings Letters Patents, but also by grant of confirmation of the Bishop of Rome himself, under a penalty, if he should suffer any stranger to intermedle, he openly professed in discharge of his duty, that unlesse their Commission gave them Authority and Iurisdiction upon the Colledg, either by* expresse words or manifest sense, he utterly exempted himself from being present. This his exception they took all in great displeasure, alledging, that they were fully authorized for the order of the matter by the Cardinal, out of whose Iurisdiction no place nor person was exempted; wherefore he had done evil, to cal in question their Authority, so wel known to all men. The next day the Delegates going to visit this Colledg, Mr. Brassy, the Master excusing himself, made the same exception to them then he had before. To which the Bishop of Chester, with a frowning look and angry countenance, said: He needed not to repeat the things he had protested*

* Fox Acts and Monuments *Vol.* 3. *p.* 765, 766.

* Our Ordinances and Commissions do so in express words.

sted before, nor they to make answer any more to those things wherein they had sufficiently informed him before. He rather feared that their quarrel was not good, that they made such a do about it, and sought such starting holes. For so were diseased persons oft times wont to do, when for the pain and grief they are not able to abide a stronger medicine: As though that any ever were able to grant so strong a priviledg, as to withstand the Popes authority. As for the Popes Letters, they must needs make on his side and those that were with him, [and could not in any wise be alledged against him. Therefore he admonished him to desist from his unprofitable altercation, and to conform himself and his to such things as were then in doing. Whereupon the Master and Schollers submitted to their Visitation, and were all sworn and examined to such interrogatories as were propounded them; but some of them swore conditionally, so as their faith formerly given to the Colledg were not impeached thereby; Which submission and president in print, in case of the Pope and his Legates Visitors should induce all these *Oxonians* whom it concerns, in like manner to submit to both Houses Visitors, (having express power by Ordinance and Commission to visit all Colledges &c.) notwithstanding these objected Oaths and Statutes.

Having (as I conceive) satisfactorily answered all Objections against the Jurisdiction and Power of the *Oxford* Visitors, I shal briefly answer some allegations against their persons and proceedings. *Obiect. 6.*

Their exceptions to all their persons in general (and **that with wonder and just scorn*) is; That *they are their fellow-subjects*; *When as for almost 800 years before they have been the care and strife of Princes. King* Alured *himself visits*, An. 806. Edw. 2. & Rich. 2. *descided (controversies in the University. The late Visitations performed by Commissioners, were by the chief Nobility of the Kingdom*; And *his Maiesty that now is visited* Christ Church *personally, with 8 Lords of the Councel*. To others of them in particular; *That they are their own members, who having sworn the observation of their Statutes,* * Page 4, 5.

*Liberties and Customs, cannot appear as Judges over them without a violation of their Oaths, nor yet without a manifest opposition of Nature, where *part Judg the whole; and the Laws of Justice too especially if they consider the Interests and Engagements, by their professions of the most active instruments of this work.

* Do not the King and Parliament, let parts judg the whole? *Answer.*

To the first answer; First, that if these Objections were of moment, they might also be made against all proceedings of Justices of Assize, Justices of Peace, and Juries, at Assizes and Sessions; yea, against *Magna Charta*, and the fundamental Laws of the Realm, which enact; *That no man shall be condemned or proceeded against, but by the Lawfull Judgment of his PEERS*, not of Kings and Nobles, or his Superiors; And against all proceedings in the University it self, either in *Congregation*, *Convocation*, or the *Vice-Chancellors Court*, where Scholars and others are judged and ordered by *fellow-subjects*, and the whole University, by some particular Members of it, without any guilt of perjury or violence offered, either to nature or common justice. 2. I answer, that though the Visitors nominated by the Houses, are but their fellow-subjects, and neither Kings nor Nobles, yet many of them are persons of quality and reputation, meet for such an imployment. Two of them are dignified with the honorable order of *Knighthood*, by the King himself; * and one of them formerly in visiting as *Vicar General* to the late Arch-Bishop of *Canterbury* (Chancellor of the University of *Oxford*) who thought him worthy to visit the whole Province of *Canterbury*, and therefore fit and meet to visit the University. Others of them are Esquires by birth, place, or profession, others dignified with the highest Titles the Universities could bestow upon them, where they have been ancient Governors, and the meanest of them are sufficiently eminent both for piety and learning: Therefore, *not to be slighted, with scandal and just scorn*, especially by their equals, or inferiors in all respects, as most in the University are. 3. That King *Edward* himself *visited the University in person*, or any other of our Kings

* *Sir Natha. Brent.*

after

after him, it is untrue; as for *King Charles* and his Nobles visiting of *Christ Church* personally, otherwise then by resorting to it, to behold a Play, or Pastorall heretofore, or to lodg in it in these times of War; I never heard of it til now: That *King Alured, Edward the* 1, *Richard the* 2, (yea *Henry* the 4, and *King Charles* too) did themselves decide Controversies between the University and others about their Priviledges, and concerning the Arch-Bishops Metropoliticall Right to visit them, is true; the distempers of the University requiring it, who would rest satisfied with no meaner parties decision; yet neither of them visited it in Person or by Commission. Thirdly in the Visitation of the Universities by the Kings Commissions, the Visitors named, were not all Princes and Nobles, as is suggested. There are but two such Commissions extant on record; the one in 2 *Ed.* 6. *pars.* 3. in Dorso, for visiting the University of *Cambridge*; wherein Sir *William Paget*, Controulor of the Kings houshold, *Thomas Smith* the Kings Secretary, *John Cheek* the Kings Tutor, *William Mayor* Doctor of Law, one of the Masters of Requests, and Dean of Pauls, and *Thomas Wendie* the Kings Physician, or any 7. 6. 5. 4. 3. 2. or one of them, were the sole Visitors, not one of them a Peer, much less of the *chief Nobility*. The other in 3 *Edward* 6. *pars.* 2. for visiting the University of *Oxford*; wherein *John Earle of Warwick*, high Chamberlain, *Henry Bishop of Lincoln*, and *Richard* Bishop of *Rochester*, *William Paget*, Controulor of the houshold, *William Peter* Knight, the Kings Secretary, *Richard Fox* the Kings Almoner and Tutor, *Simon Heynes* Dean of *Exeter*, *Christopher Nevense* Doctor of Law, and *Richard Morison* Esquire, or any 7. 6. 5. 4. 3. 2. *or one of them were nominated Visitors*; the meanest of them only doing the work, without any exceptions to their inferior quality. What Delegates *Cardinal Poole* appointed to visit both *Universities* you have heard already; and that our Arch-Bishops and Bishops have usually appointed as mean persons as any nominated by the Parliament, to visit their Provinces and

Diocess.

Diocesses is wel known to all. In fine, the Visitors now appointed have no absolute definitive power in all things, but are subordinate to the Honorable Committee of Lords and Commons for regulating the University, to whom they are to certifie all their proceedings, & to whom there is liberty of appealing granted to any that deem themselves injured; so as this Honorable Committee, and both Houses are in truth, the real Visitors, the others but their Substitutes. Therefore these scorns against their persons (which must reflect upon the Parliaments wisdom and judgment) might have wel bin spared. As for any of their *interests, engagements* and *professions*, I shall beleeve they are all publike and syncere, til the contrary be demonstrated.

Object. 7. The next exception is to their proceedings; * *That their power was not manifested by some legal way* &c.

** Page. 5.*

Answer. I answer; That this is untrue, for it was first manifested by a printed *Ordinance* of both Houses, wherein their names and power were comprised. 2. In a publike *Citation*, subscribed by most of them, of which all the University, Colledges and Halls had legal notice. 3. By an *additional Ordinance* of both Houses, and a *Commission* under the Great Seal of *England*, of which they had a copy delivered to them upon their own request, by the *Visitors* that sate.

Objection. The last Objection is, * *That there is now no necessity nor want of a Visitation* &c.

** Page. 6.*

Answer. I answer; That this is to question the wisdom of both Houses, who deem a Visitation necessary; and to prejudge the Visitors, who may find more enormities in the persons to be visited, then they can yet discern in themselves, who* *are no competent Judges in their own cause.* However, if their Innocency be such *as to evidence to the world, they are not these Monsters, that their Enemies Character would speak them; Nor yet are altogether unworthy their Education, or their Founders Magnificence*; as the Objector blasons them; they have then the lesse cause to refuse or decline the *Visitors* test, and will come off with greater honor to themselves, and

* *unusquisque sui ipsius iniquus Judex.*

shame

ſhame to their unjuſt *Accuſers*, if they appear ſuch after ſtricteſt Scrutiny, then if they had not at all been brought to ſuch a publike Tryal.

I have now made good all my Poſitions, and anſwered all the Univerſities allegations in point of Law or Conſcience againſt their preſent Viſitors Juriſdiction; not out of any deſign to diminiſh or infringe the Univerſities juſt Priviledges (which I have been formerly ſworn) to maintain) in the leaſt title, but out of a real affection to the Univerſityes welfare, and a deſire to rectifie the erronious Judgments, and ſatisfy the ſcrupelous Conſciences of all preſent Oppoſers of the Viſitors power, to prevent thoſe tragicall effects which their Obſtinacy and Contumacy in this high conteſt are like inevitably to produce, to their own and the Vniverſities prejudice, if perſiſted in. I ſhal ever endeavour to my power, that the Univerſity may enjoy all her juſt Rights and Priviledges, with Subordination to both Houſes ſuperior Authority, and flouriſh more abundantly now then ever in piety, vertue, and all ſorts of learning, which they cannot take unkindly at my hands. I ſhal only add: That as the *Vniverſity of Cambridg* ſubmitted to the *Ordinance of both Houſes of Parliament, made for its regulation*, dated 22. Jan. 1643. *which enabled the Honorable* Earle of Mancheſter alone, *to appoint a Committee under him, who ſhould have full power to call before them all Provoſts, Maſters and Fellows of Colledges, Students and Members of that Vniverſity, who were ſcandalous in their lives, or ill-affected to the Parliament, or fomentors of theſe unnatural wars, or wilful refuſers to obey the Ordinances of Parliament, or deſerters of their places of reſidence and to ſend for Witneſſes, and examine any complaint or teſtimony againſt them upon Oath, and to certify their names with the Charge and proofs againſt them to the ſaid Earle, who had power thereby given him to ſequeſter and eiect them, and put others in their places*; which he accordingly executed without any ſuch publike oppoſition as we now find at *Oxford*: So I hope the Vniverſity of *Oxford* wil receive ſo good

satisfaction of their scruples, from the premises, as shall enduce them to a like submission to their present Visitors, authorized by both Houses Ordinances, and a Commission under the great Seal, without any further plea or demurrer, or else leave them without excuse to both Houses severest justice, for their wilful contempt of their Soveraign power, against which they have publikely (in words) disavowed the least opposition or dispute, and yet strenuously oppose it in reality, by this contest against their Visitors, upon meer groundles Pretences so frequently over-ruled against them heretofore, that it can be but meer obstinacy in them to insist upon them any longer now.

The Statutes of 9. *H.* 5. *c.* 8. 1. *H.* 6. *c.* 3. 2. *H.* 6. *c.* 8. 14. *H.* 8. *c.* 2. 21. *H.* 8. *c.* 16. 1. *E.* 6. *c.* 14. 7. *E.* 6. *c.* 5. 1. *Phil.* & *Mar. c.* 3. 1. & 2. *Phil.* & *Mar. c.* 7. 8. 2. & 3. *Phil.* & *Mar. c.* 15. 1. *El. c.* 4. 5. *El. c.* 8. 13. *El. c.* 10. 12. 18. *El. c.* 6. 20. 3. *Jac. c.* 4. make mention of the *Universities*, and give them some priviledges, but no exemption from Visitations, and prescribe Laws unto them.

ERRATA.

P. 18. l. 9 read *facturusque* p. 30. l. 10 *they were* p. 23. l. 12 *Ordinationi* l. 31 *praedictarum* p. 25. l. 13. *factis* p. 31. l. 5. *Academiæ* l. 38. *university* p. 38. l. 4 *primitus.* p. 40. l. 17. *quos.*

P. 27. l. 3 in the margin, *Episo.* p. 31. l. 18. 1407.

FINIS.